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Iraq Governance Strengthening Project

Roadmap for the Implementation of Law 21 (En)

Roadmap for the Implementation of Law 21
Presentation (En)

Final Recommendations from the First National
Conference for Developing a Roadmap (En)

January 2014



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FUNDED BY USAID

JANUARY 2014

Contract No. AID-267-C-11-00006

Deliverable No.D-2014-220

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Contract No.: AID-267-C-11-00006

Contractor Name: Chemonics International, Inc.

USAID Cognizant Technical Office: Democracy and Governance Office
USAID Iraq

Date of Report: 01/25/2014

Document Title: *Roadmap and Recommendations for the
Implementation of Law 21
FINAL*

Author's Name: *James B. Mayfield
Local Governance Specialist*

Roadmap and Recommendations for the Implementation of Law 21
Final
01/25/2014

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Roadmap for the Implementation of Law 21 (En)

The First National Conference on Developing a Roadmap for Implementing Law 21, as Amended



A Roadmap for Developing an Intergovernmental Coordination Implementation Plan (ICIP)

Dr. James Mayfield

A Roadmap for Developing an Intergovernmental Coordination Implementation Plan (ICIP)

Dr. James Mayfied
Professor Emeritus
University of Utah, USA
Taqadum (GSP) Consultant

Presented at:

The First National Conference on Developing a Roadmap for
Implementing Law 21, as Amended

Al Rasheed Hotel, Baghdad, January 12 -13, 2014

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Introduction

The Expo Conference sponsored by GSP/Taqadum, scheduled in Baghdad on 12 and 13 January 2014, is structured to review and assess new approaches to devolving selected functions, roles, responsibilities, and activities in eight central ministries (identified in the recently amended Law of Governorates (Law 21) down to sub-national systems at governorate, district, and sub-district levels in fourteen of the eighteen governorates of Iraq. Here, I first summarize a set of issues, concepts, and questions that must be clearly understood before outlining the Road Map described in detail in this presentation.

In the past 50 years, some one hundred countries have sought to implement some type of decentralized system of local administration or local government, generally structured around the following key issues:

- (1) How to establish national unity in the face of forces seeking violence and separation?
 - (2) How to transfer more authority and financial resources from central to local authorities to provide better services at the sub-national level?
 - (3) How to make a sub-national administrative system more accountable to citizens?
 - (4) How to organize a national dialogue between national leaders, central ministries, local governors and governorate councils to generate a legitimate system of local government?
- And,
- (5) How to create an effective federal system of local government based upon principles of democracy and good governance to be established through partnerships and coordination among the public, private and social sectors?

This presentation will seek to accomplish three things: First, I will outline three dilemmas that can only be understood as the result of good governance. Only by understanding what good governance means can we understand how these three dilemmas can be reconciled. Second, I will outline a framework for understanding what decentralization is and how it might best be implemented in Iraq. Only by defining the components of an effective decentralization program, can we see how such a program can best be implemented in Iraq. Third, I will outline a road map by which the issues and dilemmas outlined might best be resolved as Iraq moves through a period of transition from dictatorship to democracy.

Section One: The Dilemmas of Good Governance:

Today, Iraq is faced with three core dilemmas, as it moves through a process of transition from a former dictatorship to new system of democracy. Let us first review the dilemmas and then seek an understanding of good governance, which will be the key to confronting these dilemmas.

- (1) **The dilemma of decentralization:** The concept of decentralization has been debated for many years, as scholars on both sides of the issue have demonstrated strengths and weakness of a decentralized system of government. Research has been conducted to show that decentralization can strengthen the unity of a country in some situations, while other studies document how decentralization leads to fragmentation and disunity in other

situations. Some research shows how democracy can be strengthened through decentralization; while in other countries, decentralization has simply allowed local elites to maintain their authoritarian control. Some researchers have concluded that services to local communities have been greatly improved through systems of decentralization and others have challenged this view, insisting central ministries are better able to provide quality services. Many central government ministries have seen decentralization as a zero sum game of winners and losers, where central ministries are the losers and sub-national systems are the winners as central budgets and authorities are given to local units of government.

(2) **The dilemma of democracy:** Many researchers have documented how democracy has been far more successful in improving the economic and political conditions of life (comparing the United States and the Soviet Union in Russia). Other researchers have demonstrated that democracy especially in its early development has been characterized by political instability, economic stagnation, and the eventual return to some form of dictatorship.

(3) **The dilemma of local administration vs local government:** Sub-national systems in many countries are generally characterized as local administrative structures, with power, authority, and resources generally controlled and distributed by central government ministries. In other countries, sub national systems are characterized as local government structures, with power, authority, and resources generally controlled and allocated by locally elected governors, mayors and local councils. Some local administrative systems can be quite efficient and effective and others are not. Similarly, some local government systems are very efficient and effective and others are not.

So how can these dilemmas be reconciled? Why are some decentralized systems, some democracies, and some sub-national systems efficient and effective and others are not? Recent research has attempted to explain these dilemmas as the results of whether a particular system of government is based upon principles of good governance that can ensure government institutions (decentralized, democratic, or sub-national): (1) are representative of and responsive to the people of a given government system, (2) are efficient and effective in solving problems and providing needed and desired services, and (3) are legitimate in the eyes of the citizens of a society by adhering to the core values of that society.

Good Governance: A Generic Definition

The word governance refers generically to the process by which decisions are made, resources are allocated, agendas and priorities are established, values and purposes are articulated, and the relevancy of specific problems and goals are determined. The essence of governance is about decision making, how decisions are made, who makes them, who benefits and who does not benefit, the allocating of scarce resources, and instituting new policies, programs and laws for purposes that may benefit some people and not others. Many equate governance with some government system either in the office of a president or prime minister, sub committees in a national parliament, executive offices in a central ministry or in the office of the local mayor. For the purposes of this briefing paper,

governance will be defined much broader, suggesting it will be found in small neighborhood committees, private associations, in huge corporations, religious communities, labor unions, and universities, not just in government offices or organizations.

The normative dimension of governance has to do with who benefits and who does not benefit, what rules and regulations are adopted and obeyed, what mechanisms are in place that allow narrow or broad levels of discretionary authority and power among those who make the decisions, the rules and the laws that control what is allowed and what is not allowed and what is legal and not legal. Governance has both a management component and political component (Kettl 2000).ⁱ The management/administration dimension of governance is about organizing how decisions will be made in a given situation, allocating resources, structuring processes and procedures for the achievement of goals, obtaining the results that are desired or needed. The political dimension of governance is about determining who wins and who loses, who dominates and who is subservient, about whose interests are served and whose interests are ignored. There are many different ways in which systems of governance can be structured. In corporate governance, the management dimension is often supreme, as governance is generally defined in terms of the ability of management to maintain a profitable bottom line, keeping the share holders happy, ensuring long term careers for their employees, and strengthening the loyalty and willingness of consumers to buy their products. Some managers will be efficient and effective and others will be inefficient and ineffective, some will be accountable and transparent and others will be dictatorial and secretive. Good systems of governance that are conceptualized in management terms are generally defined as the ability to ensure that goals are achieved in efficient and effective ways.

Equally important in our understanding of governance is the political dimension in which the distribution of power, resources, benefits, goods and services, is perceived to be equitable or inequitable, perceived by groups of people specifically and society as a whole to be just or unjust, fair or unfair, legal or illegal, legitimate or illegitimate. This dimension of good governance is about the power that decision makers have, the extent to which they are accountable to some system of shared and balanced power, responsive and transparent in the way they use their powers and authority, and that mechanisms are in place to control, constrain, and reduce the discretionary dominance and monopolistic tendencies that characterize various social groups and associations, private sector businesses and corporations, and public sector agencies and institutions that function in most societies. In addition, there is a vast literature on the ways that many organizations, operating within a governance perspective have conceived and improved high performance and innovativeness in public and private sector institutions.ⁱⁱ

From a conceptual point of view, there are a number of different ways to define the term governance, generally using some normative notion of efficiency, legality, effectiveness, accountability, transparency, subsidiarity, democracy and legitimacy. However, in the literature we generally see four approaches to the conceptualization of good governance, each with its own focus and each appealing to a different audience, and seeking to achieve a slightly different set of results.

Managerial Governance

The Efficiency of Government Institution Approach (World Bank 1992, 1994)

The World Bank in the late 1980s and early 1990s tended to focus on the efficiency of the implementation agencies of government (public departments in central ministries). Making ministries more accountable and transparent in their budgets, ensuring that all expenditures were properly assessed and prioritized and subject to appropriate controls and audits were also emphasized.ⁱⁱⁱ Within this focus was an emphasis on improving public management systems, ensuring that public agencies were using appropriate international standards of accounting, auditing and disclosure requirements.^{iv} Special efforts were made to introduce open bidding on government procurement contracts and on the reduction of corruption. More efficient management of state monopolies was an important part of this reform process. Much emphasis was given to civil service reform, modern administrative structures, and human resource development strategies and best practices in project management and implementation. This approach to governance assumed that a country's capacity to implement carefully designed projects was a critical determining component of project success and sustainability. Much of the USAID strategy for local development in a number of countries during the 1980s rested on the notion that management and administrative systems both at the national policy-making level and the local program and project implementation level needed to be reformed, and managed more effectively.^v

Private Sector Enhancement Governance.

Starting in the mid-1980s, following the lead of the more developed countries, a new focus was initiated to encourage structural adjustment and stabilization, arguing for privatization of public services, development of more public-private sector partnerships for increased economic development, the opening of trade relations, etc. The governance implications of this approach emphasized the role of the judiciary branch of government, strengthening the system of rule of law that protected and enhanced property and contract rights and increased greater openness and competitiveness. Market Governance is about private sector efficiency and effectiveness in the development and expansion of free and open market systems. One must add the aspects of corporate governance in this area where corporate officers must assure themselves of getting a return on their investment. Iraq has moved forward rapidly to embrace this private sector approach, even if many of the qualities of good governance are still missing.

Local Government/Civil Society Enhancement Governance.^{vi}

This approach is concerned with the local levels of governance. Local governance offers a new conceptual emphasis, which understands the significance of globalization, but insists that many of the most important factors in development must be couched in the context of locality. This emphasis on the reality of the local and the rural introduces citizen participation, local government reform, and civil society enhancement.^{vii} The strengthening of such private associations, especially nongovernment organizations (NGOs), community-based organizations (CBOs) and civil society organizations (CSOs), with powers of advocacy and representation are seen as crucial if the other two sectors (public and private) are to be more responsive and accountable to the broader interests of the general society. This often includes a belief in the importance of strengthening local

governments based upon the concept of subsidiarity, fiscal decentralization, and the enhancement of citizen participation. This approach focuses on ways to ensure that public and private sector interests were made more accountable, transparent and responsive to all groups and interests (especially the poor and marginalized) of society. This will be a major area of interest in this briefing paper, as we carefully assess the changes and developments of local administrative institutions and civil society NGOs throughout Iraq over the past ten years.

Power Sharing Approach to Governance.

This approach seeks to ensure that all three sectors (Government, Market, and Citizens) have the ability, the capacity, and the influence to ensure that no one sector dominates, but that all three can play their role in society in the most effective, equitable, transparent and accountable way possible. The most common mechanisms for integrating these three sectors, include a) constitutional systems of checks and balance and separation of powers; b) a strong free and independent media that can identify problems, issues, and concerns that individuals in each of the three sectors face and feel strongly about; c) an independent judiciary system that protects the rights and freedoms of individuals in all three sectors^{viii}; and finally, d) the creation of partnerships of collaboration from among the three sectors, to solve problems, achieve goals, and plan for a future that can benefit all members of society.

A Clear Definition of Governance: Its role in the Growth and Development of Iraq

This briefing paper on local administration reform is premised on the strong belief that there is a positive relationship between institutions characterized by good governance and the processes of societal development: politically (public sector), economically (private sector), socially and culturally (social sector) speaking. Within each of these three spheres of a fully functioning society, innumerable institutions, organizations, groups, associations, companies and corporations, clubs, cooperatives, universities, systems of religion, and mass media organizations, all function within a framework of governance, for good or for bad. This framework may be influenced and in many ways is determined by the values, norms, traditions and customs of society, but more formally is imbedded within the structures of law, regulation, rules and procedures, usually enshrined in the statements and concepts of constitutions, considered valid and legitimate.

The standards of governance utilized in any given institution, whether, political, economic, or social, are generally determined by the values and norms which such institutions might find useful, appropriate, and/or expedient, but it is also possible that the governance standards are imposed upon society by dictators and oligarchies bent upon pursuing their own personal and ideological interests. Thus, such decision-making systems, which are the essence of most social institutions, will be reflective of the legal, cultural, financial, and ethical environment in which they operate.

Governance is quintessentially about who makes decisions in the various institutions of society, and whether such decision makers are accountable, transparent, responsive, democratic, and constrained by the environment in which they operate. It should be clear that the issues mentioned above will be answered in very different ways, depending upon which system of governance happens to dominate in Iraq. As Iraq develops a process of local administration reform, we must look at the institutions of the Iraqi state, the market

and the society, to understand how, when and why decisions are made in these sectors with their myriad institutions.

How Does One Conceptualize the Three Basic Sectors of Society?

There is an impressive trend in the development of government-business-civil society partnerships and the link between governance and development is becoming evident in Iraq and other developing countries and regions around the world. The first factor is the evolution of the sharing of power among government, business and civil society over time and a perceived need to look more carefully at specific examples of how power is being shared to address specific issues in nations, provinces and communities. Relationships between actors from government, business and civil society have evolved significantly in the past three decades in many countries and will become ever more present in Iraq. During much of the Saddam Hussein regime a strong hand of governmental bureaucracy and the central role of the state was dominant. The appropriate function of business and civil society sectors to national development was to comply with the strict bureaucratic rules and procedures crafted by government institutions to regulate and control the “market” and the “public sphere.”

Faced with practical financial, managerial, technical, and resource constraints that went with highly centralized structures and processes, it was not until the establishment of a new Constitution in 2005 that we saw a noticeable shift in the alignment of power in Iraq, especially between the government and the private sector. Yet while private business is beginning to be an important engine of growth and economic development, still most of these public-private partnership arrangements have had little positive impact on the vast majority of the Iraqi people, especially in the district and sub-district areas.

Alongside this movement towards a privatized market system, new groups representing the social sector clearly emerged in the early 2000s to demand a greater voice in determining the future direction of the Iraqi system. In recent years, there are government officials, business leaders from the private sector and newly energized members of the civil society (both Islamist and secularist) who are demanding political reform and greater equity in the processes of economic and social development. Partnerships involving actors from government, business, and civil society are no longer new in much of the less developed world. In fact, in some countries, partnerships have been a central policy and program preoccupation. It will be argued in this briefing paper that if development is to bring a more equitable and a greater quality of life for the people of Iraq in their cities, governorates, districts and villages, then some form of pluralistic governance ensuring accountability, transparency, due process, participation, cooperation and partnerships involving all three sectors (Government Market and Citizens) must become an increasingly important phenomenon and a key process in Iraq’s future.

A Challenge of Definition

There are many debates and discussions concerning which individuals and organizations fall into each of the three broad categories of society. Broadly speaking we assume that these sectors encompass the following types of organizations—the public sector (or government), the private sector (business), and the social sector (civil society). The public sector would include the executive, legislature, judiciary, public service, military, and police. The private sector encompasses small, medium and large enterprises,

multinational corporations, and financial institutions. Civil society would include non-government organizations (NGOs), community-based and people's organizations (CBOs and POs), religious, women's and youth groups, and professional associations.

Each sector actor brings to these new relationships a different set of assets. Logically, the more assets available to address a problem, the more effectively the problem can be solved. These assets, or "capital" may be usefully categorized as follows:^{ix}:

Physical capital (financial, technical, and material resources)

Organizational capital (personnel, structure, leadership, capacity to manage, plan, implement, monitor, evaluate, and train)

Political capital (power, authority, influence, legitimacy)

Intellectual capital (knowledge or know-how in certain fields of expertise)

Socio-cultural capital (feelings/spirit of trust, friendship and willingness to collaborate, community traditions, norms, ideals and values).

Each individual sector is endowed with a mixture of all five forms of capital. In actual practice, each is only able to contribute certain kinds of capital to a partnership. These contributions and commitments will vary, depending on the nature of the problem, the particular context, and the capacities of various participants. For instance, the government or public sector is typically strong when it comes to political and organizational capital, i.e. policy or program design, control and coordination, providing institutional stability, and harnessing critical political will and support. Further, the government sector is unique because of its power to create and enforce laws, and exact taxes. But it cannot manage everything on its own. By itself, the government cannot force social energy, public ethics, and civic involvement. That is something that may best be done by groups in the civil society or the social sector. The dimension of good governance for the public sector generally implies the setting of policies, marshalling resources, establishing systems of executive, legislative and judicial decision making by which services are provided, stability and security are ensured, and fundamental human rights are protected and enhanced.

Similarly, in many cases the business sector may have strengths in the areas of organizational capital and physical capital, i.e. profit making, labor productivity, private sector investment and competitiveness, technological advancements and entrepreneurial growth. However, the business sector cannot provide political legitimacy or institutional security, which is best done by the government sector. It also cannot guarantee social equity and economic equality. In fact, many country experiences show that the market left solely on its own tends to generate a great deal of economic and income inequalities. Except for their fiscal obligations (i.e. taxes) to the government and token social outreach programs, businesses seldom join the community in addressing the challenges of poverty and marginalization. Hence, the need for linking social and government sectors to check and balance the operations of the free market with regulatory activities and programs that reduce these inequalities. The dimension of good governance for the private sector implies the creation of economic and financial policies with instruments, processes, and systems of economic decision-making, industrial policy and role of the private sector, the protection of property and contractual agreements, and an assessment of the risks and opportunities for domestic and international trade.

In the same way, the social sector can often contribute significantly to partnerships through socio-cultural capital, i.e. advancing people participation, promoting self-help,

and increasing cultural awareness and commitment to core values and meaningful traditions. These assets may be used to address economic inequities in a manner that is socially and culturally acceptable to the local community. Yet, the social sector tends to be weak when it comes to ensuring political stability and institutionalization, and often lacks authority and administrative capacity. The social sector does not have the legal, judicial, and regulatory authority to require the business community to be more accountable and responsible since that is best accomplished by government agencies or quasi-judicial authorities. Moreover, the entrepreneurial skills required to mobilize local financial resources, which are critical to sustaining community development, are something that civil society groups may have to learn from the business sector. The dimension of good governance for the social sector reflects the social norms, values, purposes and goals of a society, suggesting the role of culture, religion and civil society to define, articulate and defend the longer term welfare of the whole society, the common good, ecological sustainability, the reduction and alleviation of extreme poverty and human deprivation, but also the structuring of processes of discourse by which new values, new goals, and new visions of purpose might be discussed, modified and considered over time.

Below in Table 1-1 is an outline of these three sectors. Between the social sector and the public and private sectors is the public space of informal groups, formal associations and organized institutions often hierarchical and corporate in nature. This public space between the three sectors has often been described as civil society, a term that needs further clarification later on. At each of these levels between sectors, people move up into ever more complex and powerful relationships in their impact on the challenges of experienced life. Problem solving requires collaboration, cooperation, alliances and partnerships among these three sectors. This is the challenge of Iraq today.

This conceptual framework provides a set of ideal types of social interaction that should prove to be of some heuristic value as we look at the realities of Iraq. It certainly does not provide the final word on how and why these three sectors are most important, but it does provide some categories of thought that can open up dialogue concerning how these three sectors, either individually or collectively, in conflict or in partnership, may encourage or prevent certain types of political transformation, economic development and social change

Table 1-1 General Conceptualization of the Three Sectors of Society

Public Sector	Private Sector	Social Sector (Civil Society)
Institution		
Government, Police, Military, Executive, Legislative, groups	Businesses, Enterprises Large/small companies Corporation, Entrepreneurs	Groups of private citizens NGOs, associations, Press Universities, Religious
Judicial branches	Employment opportunities	
Purposes		
Stability, Security Legitimate rule	Surplus, wages, taxes Income, investment, jobs	Cultural Values, Norms, Traditions, Ideals, Ethics

Needed Services	entrepreneurial innovation	Morals, Systems of Purpose
Primary Assets Available		
Political Capital	Investment Capital	Social Capital,
Organizational Capital	Physical Capital	Cultural Capital
Human Capital	Human Capital	Human Capital
Positive Contributions When Effective and Held Accountable		
Establishes Laws, Rules	Provides resources	Helps strengthen values
Keeps the Peace	wages, income, jobs	ideals, norms, and traditions
Protects Citizen Rights	for the social sector	Helps hold the Public and
Solves Problems	Pays taxes to Public	Private Sectors accountable.
Distributes Wealth	Sector	Provides labor for Private
Controls Private Sector	Develops and utilizes	sector, and employees for
through taxation	Human capital	Public Sector. Defines
and regulation	Sells goods and services	Meaning and Purpose of life.
Reflects Social Sector	to the social sector	Purchases goods and services
interests, demands, concerns		from the Private Sector.
Negative Consequences When there is no Control or Accountability		
Tyranny, Dictatorship	Inequality, Exploitation	Social/Religious Intolerance
Loss of Liberties	Poverty, Defective Goods	Passivity, Anomie, Crime
Anarchy, Poor Income	Ecological deprivation	Meaninglessness, No purpose

Section Two: An Institutional Framework for the Implementation of Different Visions of Decentralization and Local Development in Iraq

In recent discussions among a variety of Iraqi officials and donor representatives, it has become clear that little consensus exists concerning the meaning and/or appropriateness of various types of decentralization. Until there is some consensus among officials in Iraq concerning how decentralization and local development should be defined, the management and implementation of this program will be problematic.

In recent years, scholars concerned with the processes of local development have recognized that local development is a process that seeks to improve the ability of local institutions (governmental, private sector, and civil society), to better meet the needs of the people living in these local areas. For many decades experts have seen local government institutions as providing appropriate ways of managing local affairs and providing local services. In recent years, many are arguing that locally elected institutions would by definition, be more responsive and by implication more accountable to the local community. Such supporters of local development see such local institutions as being able to provide more effective and relevant assessment of needs -- clearly representative of the local community. Local knowledge and awareness allow local officials to allocate resources and program activities in a far more rational and appropriate way than central government officials are forced to abide by a rigid set of centrally determined procedures and requirement. Central ministries are usually based upon functional specialization and formalized program implementation and are seldom capable of shifting priorities or adapting national policies to local needs. While one is aware of Iraq's rather heterogeneous population, certainly similar with many other developing societies, and thus there are important differences between Northern and Southern Iraq and between the cities and the smaller towns, and even among the hundreds of village communities.

Policy implementation if it is to be effective and to have the impact desired, requires greater flexibility and adaptation. Iraq's local communities clearly have the potential to provide the necessary information and sensitivity needed for such flexibility. This argument, at least at this point, does not require the present capacity of such local institutions (public, private and civil society), only the potential capacity of such local institutions, non government organizations, local business establishments, and civil society associations, including social and cultural groupings. Locally elected councils made up of representatives of the local community, so the argument goes, would be better able to ensure responsiveness, accountability, transparency and needed flexibility, all related to questions of good governance.

Unfortunately, the persuasiveness of such arguments for decentralization still falls short if one reflects this normative picture onto the mirror of reality. While one may appreciate the need for greater flexibility, this ignores the broader national goals that seek greater standardization in the quality of health, education and social services. Reliance upon locally elected councils and officials will still reflect a greater variance in administrative capability and commitment to certain policy requirements. Too much local discretion in sector program implementation most certainly will reduce the standards of performance. Local officials often find themselves caught between the

requirements of the central policy and the demands of local elites. The responsiveness and flexibility arguments tend to see the process of program implementation as largely an administrative process, in which local needs are defined and allocated to a homogeneous community. With the proper utilization of local knowledge and experience, such policy requirements will be rationally and equitably applied to local needs.

Unfortunately, this almost never happens. The processes by which resources, whether from the central government or from local resource mobilization activities, are allocated and applied to local problem areas are still reflective of a highly politicized set of activities all the way from the village to the Council of Ministries. Even if one grants that the Iraqi Ministry of Finance has the last say in how resources are allocated throughout the central ministries of Iraq, still councils, at the governorate and district levels in particular and potentially in the towns and villages somewhat, can impact on how such resources are allocated at their levels, with some communities and some individuals faring better than others. This is not a rational administrative process (nor does such bureaucratic rationality exist anywhere) but a highly politicized system involving a number of competing interests not necessarily resolved by administrative fiat.

One last argument that is often made needs to be considered. Local institutions still have a unique opportunity to provide feedback, to register local sentiments of discontent and dissatisfaction. Central ministry officials assigned to various governorates and municipalities have neither the inclination nor the incentive to share local complaints and problems with their superiors. Local institutions, potentially, offer a mechanism through which local demands and interests can be articulated. Local government systems are better equipped to respond to changing needs, to develop innovative approaches relevant and appropriate for the local situation, and to anticipate future problems and concerns long before a central government agency. These arguments for the establishment of a local government system committed to local development, while persuasive in the abstract, need further clarification within the context of Iraq's present efforts at greater decentralization.

At this point, we are still asking you to withhold judgment, in terms of the kind of system of local government/administration Iraq might need as one reflects on what institutional framework might be best for Iraq's Local Development Program. If the demands of national development require centrally motivated commitments to rational processes of management and administration, then the dispersed areas of traditional elitism, inequality and ignorance cry out for greater unity, greater commitment to a central will and by implication (greater not less) centralization.

As a preliminary introduction to the conceptual issues related to greater or lesser decentralization, let us first briefly define the concept. The term decentralization has been used to describe a myriad of contrasting local administrative structures and processes. Still the taxonomy used in this paper to contrast the different processes of decentralization will be limited to three: (1) de-concentration, (2) delegation, and (3) devolution.

De-concentration refers to the reassignment of personnel from the central government to local areas in the administrative system including some degree of responsibility for specific functions to lower levels within central government ministries. This often implies the transfer of specifically defined functions but with the ultimate authority remaining in

the central ministry. De-concentration allows the transfer of authority to a lower level. This was the most common form of decentralization found in Iraq during the last fifty years.

Delegation refers to the transfer of managerial responsibility for specified functions to both local administrative units and other types of organizations that are outside the regular bureaucratic structure, including parastatals and semi-autonomous administrative agencies. This form of decentralization has been used more widely in Iraq during the last 10 years. Governors and *qa'im maqam* and their staff have had some authority delegated to them to facilitate specific project and service implementation at the local levels.

Devolution refers to the creation and strengthening of local government systems through the establishment of legally and financially independent sub-national units of government which are relatively autonomous and free of central government control and direction. In terms of the Iraqi experience, one might be hard pressed to demonstrate large numbers of examples where significant devolution of authority and autonomy has taken place. However rather than focusing on the amount of devolution that has taken place in the past, it appears more relevant to focus on the ways in which local units may be strengthened in the future to take on such added responsibility as they becomes available.

As we reflect on these processes, it is important to see decentralization as the broader term which includes some or all of the above and reflects a government's willingness to transfer the responsibilities, controls, and activities and to allow lower level organizations and institutions to take over these activities partially and/or completely. This certainly appears to be the case seen in the recent amendment (Law 19).

It is important to understand that this document is a working concept paper, drawn up as a preliminary effort to design a series of questions that need to be addressed as the GOI considers the advantages and disadvantages of decentralization and its impact on the processes of local development. This material also reflects input from various ministries and donor organizations that have an interest in participating to determine how decentralization should be defined, and how and why decentralization may be useful for the long-term processes of local development, including:

- A) improved service delivery (health, housing, education, social development, and agriculture, etc.);
- B) broad aspects of local economic development (LEC), local government revenue expansion, and fiscal management;
- C) strengthening of citizen participation in local councils and the enhancement of local civil society organizations; and
- D) Providing focused efforts to reduce the number of disadvantaged and vulnerable people living in extreme poverty, especially women and children.

The process of decentralization is complex, time consuming and requires cooperation and support from a variety of different stakeholders at the national, regional and local levels. In some countries, the movement from a centralized system to a decentralized system has been accomplished very quickly, in a matter of months not

years. Indonesia's experience is called the "Big Bang" Approach. Other countries have moved into a decentralized system very slowly, even decades, as in India. Whether quick or prolonged, as we shall see, there are a variety of stages, sequences of activities that nearly all countries have gone through to create a fully functioning system of local government. As a preliminary effort let us consider the following suggestions.

**Phase One: (De-concentration Phase) (taking at least 1-2 years).
Administrative Unit Focus would be the Governorate (Service Delivery Effectiveness)**

First, this phase seeks to map out in some detail the present system of local administration that presently exists in Iraq, both between what the Constitution and Iraqi laws say and require and what exists in practice out in the field. This includes

A) the formal and informal structures of government, private sector, and civil society that exist at the national level, the governorate, district, sub district, municipality, town and village.

B) the functions presently assigned to each of the structures of government at each of the administrative levels of the GOI.

C) the revenues and expenditures of the various structures of government, operating at each of the levels of the administrative levels of the GOI.

Second, this phase would focus on identifying the structures and functions of the sub-national system presently existing, including: executive systems and legislative councils existing at the governorate level and the district councils at the district level).

Third, this phase would focus on identifying the various, NGOs, Cooperatives, Associations, and Civil Society Organizations that are presently operating at the various administrative levels of the GOI. This would also require some analysis of the structures and functions of these various nongovernment organizations, including their present level of financial support they receive from government and non government sources.

Fourth, this phase would seek to identify what specific capacity building programs (training in management, planning, budgeting, program implementation, and monitoring and evaluation skills) these various government agencies, local councils and non government organizations, might need now to perform their functions, responsibilities and programs in a more effective and efficient manner. Of greatest concern would be an identification and assessment of what types of training would be needed to improve governorate and district staff skills in planning, budgeting, contracting/bidding, monitoring and evaluating of infra-structure projects that might be implemented in this next year or two.

Fifth, an inventory and assessment of recent and ongoing capacity building programs implemented at the ministerial, governorate and district levels.

Sixth, this phase would include the design, development and implementation of such training programs that might be funded and supported by various donor agencies willing to participate in this Decentralization effort. Since this first phase is being suggested as a one or two year process, it is recommended that this Step Five (Training) might be limited to three governorates (out of 12) within which some six governorates (out of 141) would participate in a pilot training project. It is expected that the lessons learned through this pilot program would help establish a more comprehensive system of training out to all the governorates and districts of Iraq.

There would be great value in coordinating the selection of these districts in cooperation with the programs being implemented through other international donors presently working in Iraq and presently committed to providing financial support to the local administrative system in Iraq. It would be expected that the nine ministries mentioned in Law 21 would participate in this first Phase (Education, Health, Agriculture, Social Affairs, Housing, Municipalities and Public Works, Sports and Youth, Planning and Finance. Especially important at this stage would be the identification of specific ministries willing to participate and experiment with various levels of greater de-concentration and even more delegation, as such efforts in decentralization might impact on the implementation of a Local Decentralization Development Program in positive or negative ways.

It is anticipated that this first phase of training would be to strengthen the planning, management, and budgeting, contracting capacity, and the project implementation and evaluation skills of the local administrative system primarily at the governorate and district level. There is some urgency for a capacity building effort at the local level before the summer of 2014 to ensure, that the governorates and districts selected for this program are ready when the various donor resources are disbursed.

Phase Two: (Delegation Phase) (taking at least 2-3 Years)

Administrative Unit Focus would be the coordination of Governorate-District Linkages (Building systems of good governance, networking and partnerships)

First, this phase requires a careful assessment in each ministry participating in this Decentralization Program to determine what functions and responsibilities and programs presently assigned to the national (ministerial) level might more appropriately be delegated to the governorate level, and what functions and responsibilities at the national, governorate, district or sub district level might more appropriately be assigned to the sub national level. This determination will require a careful review of the present system, hopefully somewhat improved because of Phase One training, and an assessment of the kinds of capacity building that would be needed at the lower levels, before such functions, responsibilities and programs could be delegated down to the lower levels. This is why the focus of Stage Two is on the linkages needed between the governorate system and district system, with governors working closely with *qa'im maqam* (Mayors) and governorate councils working with the district council, not in a hierarchical way, but in a more partnership way and facilitator role

Second, this phase would focus on operationalizing a series of criteria by which ministries could best assess what functions could most appropriately be delegated down to a lower level. Some criteria that might be considered would include questions related to:

A) The extent to which various services presently being provided by the different ministries are being implemented appropriately in terms of quality, quantity and effectiveness and efficiency. This would require some pilot testing, some assessing of the capacities at each level, and how delegating certain functions would impact on the service delivery system, either positively or negatively. Each ministry would be responsible to determine to what extent some function should or should not be delegated. There would some great value in having experts from other countries being invited to

share their experiences and observations about the advantages and disadvantages of these ministerial processes of increased delegation.

B) The extent to which present systems of local administration are able and willing to support local economic development, including employment enhancement strategies at the local level, local entrepreneurial investment opportunities, and the establishment of new businesses at the local level, micro credit and other income generating projects that can impact on the poorest of the poor, and other processes of local administrative system revenue enhancement efforts (increased taxes, licenses, investment projects, fees and other sources of local government revenue). This criteria is very important for the broader national efforts of economic development. Much evidence exists that greater delegation of authority functions and responsibilities down to the local level, can play a very efficacious role in stimulating local economic development. While it is not clear at this time which ministry in the GOI should play the leading role in local economic development, it is clear that significant study will be needed before one could say categorically that one level is more relevant or appropriate than another. A preliminary idea might focus on identifying what different roles and functions might best be delegated to the governorate level and what other roles and functions might best be delegated down to the district level.

C) The extent to which the present system of local administration is able to reduce the communication gap that often exists between the local citizens and the government system that operates at their level. This would require an assessment of the present council systems that exist at the governorate and district levels, seeking to determine to what extent local councils are perceived to be responsive and accountable to the needs and demands of the local communities. There would need to be some evaluation of the advantages and disadvantages of having councils made up of both selected and elected members, to determine what impact these mixed member councils are having in making good decisions that are appreciated and understood by the local citizenry. Equally important, would be the role of the local administrative system in helping to support and encourage the development of nongovernment organizations (NGOs), cooperatives, associations, and other types of civil society organizations.

Third, this phase should provide some information and understanding as what aspects of the local administrative system are working well and what aspects of this system are not working well in terms of service delivery, local economic development, and greater participation and communication between the local administrative system and the general population. This Second Phase, is a very important phase, for it will provide the information, the experiences, and the understanding needed to determine whether the processes of de-concentration in the First Phase or the processes of delegation in the Second Phase are adequate to meet the long range needs and desires of the ordinary citizens of Iraq. Each country, each society is different. Some countries have determined that a fairly centralized system of local administration is adequate to meet the needs of the people, with most services and programs being organized and distributed in a top down system in which central ministries in the capital of the country make all or most of the decisions. Other countries have determined that more is needed than just the de-concentration or delegation of central functions down to the local level. Based upon the lessons learned in the Second Phase of a Decentralization Program, some countries have determined that the people want more decentralization, not less, that if the long term

needs of the people are to be met, elected local councils and other elected officials are needed to ensure that the local system is more accountable and responsive to the needs and desires of the local people.. Therefore, it is eventually decided that a more democratic system is needed, in which the local system is moved from being a fairly centralized local administrative system (*Idaara Mahaliya*) to a more decentralized local government system (*Hukuma Mahaliya*). This local government approach requires a significant amount of time, before it can be implemented effectively. This is the work of Phase Three.

Phase Three: (Devolution Phase) (lasting at least 3-5 years)

Administrative Unit Focus would be on all three levels of Governorate, District and Sub-District (Building a democratic system of local government)

First, this phase requires a whole series of new policies, statutes, regulations and procedures that must be determined, agreed upon by a wide variety of key stakeholders in Iraq, and then formulated through the legal and legislative processes associated with the writing and approving of new laws. This third phase usually emerges out of the experiences and observations of the lessons learned in Phase One and Phase Two. When Phase Three should be commenced depends on the leaders and key officials of Iraq. It generally does not happen quickly, there are some basic preliminary steps that are needed and we shall seek to identify these steps and to outline the preconditions, the activities, and follow up efforts that are needed to see this devolution process through to the conclusion, which is the establishment of a more democratically based system of decentralized local government.

Second, it is important to understand what we are talking about in describing Phase Three. Phase Three is less about the establishment of a program or project and more about implementing a policy reform process and they are not the same. Most programs and projects have a beginning and end, policy reform is much more complicated, often fragmented between different competing elites and key stakeholders, frequently interrupted, unpredictable and often requires considerable more time than a program or project. Another difference is the tendency for projects and programs to be implemented in a single ministry, while most policy reform efforts require the cooperation and coordination of a number of ministries, agencies, organizations and groups. The long term goals of a policy structured to implement a democratically based decentralized local government system will require the concerted actions of multiple ministries, agencies and groups, both within and outside, from both the civil society and the private sector. This policy emphasis of increased devolution down to a local government system will create winners and losers. If a Local Government Decentralization Policy is adopted by the Prime Minister, his cabinet and the Parliament, there still will be those who benefited under the more centralized system, both in ministries and in the society as a whole, who will still be in a position to defend their interests, and may continue to oppose the changes coming from greater decentralization. There are significant pressures unleashed by this decentralization policy reform process that must be understood and prepared for.

Third, let us seek to identify the basic steps that must be completed if a serious policy reform process for greater decentralization and devolution is to be implemented.

Before progress can be made in the implementation of a more decentralized system of local government, key decision makers in the GOI must view the implementation of a new policy for decentralization as appropriate, legitimate, and needed. This first step requires that some individual or group with credibility, political influence, and a willingness to be the champion of this new policy, will be identified. It is important that the policy for greater decentralization must be recognized as legitimate and worth pursuing early in the implementation process. Because this kind of policy reform will likely require a significant shift in the way the local government will function, it is important that the policy champion communicate forcefully and consistently that this new policy will introduce changes in the local administrative system that are needed to make this a local government system both accountable and responsive to the local communities. Let us call this effort a policy reform process for “Decentralization and Local Government Development” (DLGD). This process is the ultimate essence of the Third Phase and will require a complex set of Implementation Tasks, Strategies, and Mechanisms, which need to be part of the work plan prepared and eventually implemented.

In terms of this concept paper on Local Decentralization Development, this is a first draft effort to conceptualize the basic dimensions of a process of greater decentralization in the Iraq, reflecting appropriate phases of the process of implementation, and the criteria by which officials in the Government of Iraq (GOI) can determine when and how the GOI might wish to move from one phase to another. There is no preconception as to when or if the GOI should or should not move from one phase to the other, only that the first and second phases are generally pre-requisite phases before enough key stake holders in Iraq will be convinced to pursue the steps in Phase Three. (See some of the action steps required for the development of the policy requirements associated with each phase below). While it is always difficult to predict when a country would be ready to move into Phase Three, much would depend on the level of political commitment generated in a given country. This decision will come from Iraqi leaders and no one else.

Just to be clear, phase one, if it were to be started in Iraq, would best be implemented at the governorate level with a focus mostly concerned with administrative effectiveness and efficiency, in which executive systems of a governor and ministerial staff would gradually be linked into processes of coordination and collaboration with the elected council at the governorate level for the purposes of monitoring, assessing, and improving services provided by central ministries. As will be explained later, Phase Two shifts from a focus on effectiveness of service delivery to a focus on local good governance, creating processes of partnership formation and networking between the governorate system and the district system. Now let us outline the key tasks for implementing the policy reforms needed to move from Phase One to Phase Three.

Key Tasks for the Implementation of a Policy Reform for Decentralization and Local Government Development would include:

1. Creating Awareness, Understanding, Ownership and Legitimacy for the processes of Decentralized Local Government Development (DLGD)

Strategies and mechanisms include: Convening scholarly conferences on Decentralized Local Government to raise awareness, to challenge the status quo, to

identify policy reform champions, establishing new forums for policy discussions, creating multi ministerial committees, developing a high level convening authority to provide legitimacy to this policy reform process and a nationwide mass outreach campaign to create citizen awareness.

2. Building Support Groups, Constituencies, Key Stakeholders willing to champion policy reform in DLGD.

Strategies and mechanisms include: Stakeholder analysis, Stakeholder Workshops in the various governorates. Political mapping, lobbying and advocacy, association development of local government officials (governors, mayors, council members), marketing, bargaining, and building coalitions, dealing with the realities of DLGD policy opposition, mobilization of under-organized stakeholders and beneficiaries from such policy reform.

3. Mobilization and Accumulation of Resources needed to implement a DLGD policy reform process.

Strategies and Mechanisms: Identifying and obtaining seed and bridge financing from internal/external sources; Negotiating with finance and budget authorities for a larger share of the national budget; Development of partnerships/exchanges with other public agencies, NGOs, community groups; Lobbying with external donors; Building public finance reviews through more transparent, accessible budget processes by lobbying/bargaining; and Identifying new skills, capacities, and preparing training programs for staff in various ministries and local government units.

4. Restructuring, Modifying, or Replacing key Ministerial systems and structures in order to facilitate the effective implementation of the DLGD processes outlined in the work plan.

Strategies and Mechanisms: Establishing new missions and functions to old organizations and/or creating new organizations (raise the question concerning the need to develop a new Ministry of Local Government or the Ministry of Local Development), building implementation capacity at the central and local levels, Fostering networks and partnerships among ministries, governors mayors and local council members; perform Organizational Diagnostics (SWOT); Organizational retooling, reengineering through ad hoc task forces and cross ministerial commissions; and enhancing cooperation and coordination among implementing agencies.

5. Develop Specific Action Plans, Performance Expectations and Accountability among the key Stakeholders to ensure an effective implementation of the DLGD policy reform process.

Strategies and Mechanisms: Utilize key stakeholder groups, organizing Policy Dialogue committees and various taskforces implied in this implementation plan to develop management systems that can develop concrete action plans, performance expectations, realistic schedules, and mobilization of needed resources; creating and implementing participatory planning processes; joint problem solving workshops; Utilize multi-ministerial action plans; dealing with resistance by developing innovative dispute and conflict resolution mechanisms, identifying, creating/or altering incentive systems through the creation of reward mechanisms at both the ministerial and local government

levels for good performance and the development of sanctions for under-performance; and recognizing the importance of and mobilizing actions for early successes and communicate success stories through the media.

6. Assessing and Monitoring a DLGD Implementation Plan Impact and the achievement of expected results

Strategies and Mechanisms: Establishing realistic performance standards and milestones; establishing managerial mechanisms for application of lessons learned; linking learning and operations by cross agency monitoring units, citizen oversight panels, public hearings and regularized performance reviews; creating and positioning analytic monitoring capacity in cooperation of international monitoring groups, policy impact evaluation systems in Iraq; and finally strengthening civil society watchdog and advocacy programs, conduct service delivery satisfaction surveys, and other auditing and feedback systems structured through local councils at the governorate and municipality levels.

One significant key indicator of the success and positive impact of a DLGD effort would be the ability of the local government system to coordinate and collaborate with both the private sector and the civil society in providing better delivery of services, reducing poverty and strengthening and enhancing good governance at the local level, ensuring more meaningful participation, greater responsiveness and accountability, improved process of transparency, and the development of a progressive system of Rule of Law.

A program linking local government decentralization reforms to poverty reduction, via improved local governance and local development, has provided the rationale for donors' support of decentralization reform and parallel efforts to build local governments' capacity in many countries around the world. This section outlines a framework for organizing and investigating the linkages between decentralization and poverty reduction and stresses their complex, non-linear characteristics. We then review the modalities of external aid to decentralization and point at some of their limitations and contradictions. In spite of much rhetoric, decentralization reforms and local governments capacity building are still marginalized in a policy dialogue dominated by macro-economic and sector policies issues. Many sector and multi-sector financial assistance programs, often work at cross purpose with decentralization, while the institutional impact of community development programs is often limited by inadequate approaches to the improvement of community local government relations.

General Conclusion: Different Visions of Decentralization

In an attempt to clarify the options that exist, and the many different ways that decentralization can be defined, it important that some type of matrix be established that will better facilitate future discussions related to decentralization. First across the top of this matrix let us list several options between what might be called a local administration system at one end and a local government system at the other end. The above three terms will be used to clarify and distinguish the dimensions of this continuum

A Local Administrative System	<----->A Local Government System		
Idaara Mahaliya	(Testing Period 2014-15)	Hukuma Mahaliya	
(1) Deconcentration	(2) Delegation	(3) Devolution	

Administrative Reform Testing Period

Phase One: Intergovernmental Coordination through De-concentration

Phase Two: Intergovernmental Coordination through Delegation

Phase Three: Intergovernmental Coordination through Devolution

Down the side of this matrix are the various sectors of change that will be impacted by whatever form of decentralization is implemented.

Examples would include: A) Administrative, B) Financial, C) Political, D) Economic.

Let us seek to identify some of the characteristics that might emerge, depending on which form of decentralization is being considered by the sector that would be impacted.

I. Administrative Sector: Under De-concentration

1. Local government officials follow central policies, plans are developed according to central regulations and norms. Local institutions and departments are dependent on central funds and local expenditures are established by central authority and all programs and activities of these local systems are totally controlled and determined by officials in Baghdad.

2. Local employees are recruited, trained, and supervised by regulations and procedures established in the center. All local employees are usually accountable to one of the central ministries. Their salaries and promotions are all determined in Baghdad.

3. Local government is a service delivery arm of the central government. Local officials have little or no discretion over which services will be provided, or over the mix or methods by which such services are organized. Central Ministries control the whole process of service delivery.

4. All forms of operations and maintenance (O&M) of equipment and infrastructures are funded and specified by the central government.

5. Local government are expected to provide information, reports, upwards to officials in the center.

Under Delegation

1. Local government still follows central policies and guidelines, but local officials have some discretion to tailor national programs to local needs, and to modify the form and structure of such programs to reflect the local situation.

2. Local government staff may be a mixture of central and local employees. Local government has authority to hire and place them, while the central government still controls promotions and firing of employees.

3. Local government provides a service menu set by the central ministries, but some discretion is given to emphasize some services over others depending on local needs.

4. Local government is given some independent responsibility for some O&M, but the standards and requirements for most O&M is still with the central government.

5. Local officials still provide most of the information collected to central ministries, but some selected information may be shared with local officials and citizens.

Under Devolution

1. Local government is subject to national standards and norms, but are free to set their own policy preferences and priorities. Local officials are free to plan autonomously in response to local preferences. They are free to set up their own systems of management and control, as long as they are not inconsistent with national norms and standards.

2. Local government staff are employees of the local government departments. The local government hires and fires, sets salaries, determines numbers needed, criteria by which people are promoted, again as long as they are not inconsistent with national standards.

3. Local governments determine what services will be provided in a given community, determine the mode of provision, eligibility and allocation of such services.

4. Local government is responsible for all forms of O&M.

5. Local government provides some information to the central government, but most information collected is made available to local officials and citizens.

II. Financial Sector

Under De-concentration

1. Local government is dependent on the center for funds, central ministries provide spending priorities and budget allocations.,

2. Local government has almost no independent revenue sources

3. Local government reports to center on expenditures according to central formulas, priorities, and norms.,

4. Central government conducts all local government audits.

Under Delegation

1. Local government is dependent on the center for funds, but the local government has some discretion on spending priorities within budget constraints. Block grants and conditional transfers from center offers some autonomy.

2. Local government has some independent revenue sources

3. Local government reports to center and to local officials on expenditures according to central formulas and norms.

4. Center and local governments conducts local government audits.

Under Devolution

1. Local government sets its own spending priorities, develops its own plans to meet service delivery obligations given resource availability.

2. Local government has mix of own source revenues, revenue sharing, central transfers. Local government may have some authority for debt financing, but is subject to a hard budget constraint (no central bailouts).

3. Local governments report to local officials and citizens on expenditures according to central standards and norms.

4. Local government is responsible for audits, and reports the results locally and to the center.

III. Political Sector

Under De-concentration

1. No election for governors or mayors or councils.
2. Local officials are appointed by the center and serve central interests.
3. Civil society and citizens rely on remote and weak links to the central government for expressing their concerns and needs, exercising accountability.
4. Little political space for local civil society, central elites control politics.

Under Delegation

1. Local government institutions may be a mix of elected and centrally appointed officials. Local officials often tied to national party platforms, little discretion.
2. Some local government accountability, but strong central orientation.
3. Civil society and citizens have some local voice and accountability links, but center remains able to override local decisions.
4. Some political space for local civil society. Limited local participation.

Under Devolution

1. Locally elected officials (governors, mayor and counselors) are in charge of the local government institutions, and may or may not be linked to national parties. Local party platforms respond to local constituent demands and needs.
2. Local officials are strongly accountable to local citizens. Elected officials develop budget priorities, service mix to meet local preferences and needs.
3. Civil Society and citizens have strong links to local government in order express their opinions, concerns and needs.
4. Broad political space for local civil society. Extensive local participation.

IV. Economic Sector

Under De-concentration

1. Economic development policies and priorities set nationally, implemented by local units of central ministries.
2. Information on local Economic Development priorities channeled to the center for central decision making.

Under Delegation

1. Within a national Economic Development policy framework, local government is allocated some responsibility for managing selected governorate/district investments.
2. Local government has limited choice of Economic Development strategies.

Under Devolution

1. Local government becomes a key actor in governorate/district economic development, able to make independent investment decisions.
2. Local government and the private sector partners seek competitive advantage niches in the governorate and district economy (global economy for larger cities)
3. Local Economic Development emerges as a high priority.

Section Three: A Road Map for Intergovernmental Coordination Reflective of the Newly Amended Law of Governorates (Law 21):

A Future Pathway to Integrating an Improved Service Delivery System in Iraq.
Tools and Approaches to Help National/Local Administrators in this Transition Period

In section two of this report, we discussed a time-table or schedule by which a process of decentralization might be implemented in Iraq. What is problematic about this schedule is the present amount of open criticism, even opposition to the processes of decentralization. Many are questioning the value and appropriateness of decentralization, especially in the central ministries. Many Iraqi officials are accustomed to a top-down, centralist perspective, where power, influence and decision-making is concentrated in Baghdad. While many acknowledge that some power, authority and resources should be devolved into Iraq's sub-national system, both to improve the efficiency and effectiveness of Iraq's service delivery processes, but to ensure such services are reflective of local people's needs and desires. The question most pressing in today's situation is not the "what", but the "how" this should be done. I wish to suggest that the process of "how" be re-conceptualized to reflect a process of gradual intergovernmental coordination, rather than a process of immediate decentralization. The advantage of intergovernmental coordination as the basis for this period of transition from dictatorship to democracy is the ability of such a process to reflect the interests of both the central ministries and the interests of the sub-national units at the governorate, district and sub district levels of Iraqi society. Today Iraq faces a significant cross roads: one leading to the maintenance of the present status quo based upon a top-down, central ministry, control system versus another road leading to an intergovernmental coordination process by which service-delivery systems are significantly improved through a sharing of functions, responsibilities, roles and organizational requirements needed for a more effective (responsive, accountable, and based upon good governance) implementation of central ministry programs and projects. The present amended Law 21 (Law of Governorates) provides a framework by which eight ministries (Education, Health, Agriculture, Housing, Public Works, Sports and Youth, Planning and Finance) begin to implement a process that will gradually allow national level and local level officials (executive and legislative bodies) to share in the processes of planning, designing, managing, monitoring, and evaluating of ministry-specific programs and projects.

One important lesson to be learned in this conference is that intergovernmental coordination is not about winners and losers: with central ministries winning and local systems loosing, or *visa-versa*, with local systems winning and central ministries loosing. This is about helping both ministries and local administrative systems to be winners, both improving their contribution to the complex and difficult process of providing needed services to the people of Iraq in a timely, effective, relevant and impactful way. Both working together to ensure the people of Iraq receive the services they need, desire, and deserve.

A Road Map to Successful Intergovernmental Coordination

I. Pre Planning Action Steps (Accomplished by the late Spring 2014)

(1) Initiation of the Expo Conference (12-13 January 2014) to invite elected and professional central government and sub national government officials, scholars and experts in administration reform, decentralization and intergovernmental coordination. Presentations, discussions, and open participation will lead to a set of edited papers, participant observations and preliminary sets of recommendations.

(2) The Prime Minister will be encouraged to convene the High Coordinating Council for Provinces (HCCP) as soon after the upcoming elections as possible, to include representatives (central and sub-national levels), of the eight ministries identified in the amended Law 21 Law of Governorates (2008, 2010, 2013), representatives of the Council of Representatives, Council of Ministries, Governors, and Chairmen of governorate councils, and others the Prime Minister may wish to invite. The Prime Minister and his chief advisors will determine the agenda of this meeting. The main purpose of this meeting will be to clarify, assess, and determine the purpose, the meaning, possible goals and results of the amended Law 21 Law of Governorates. [The main focus of the posts election meeting would be to produce an outline of major milestones with some timetable or road map.] One possible outcome of this meeting could be a formal written statement of how this law should be interpreted, implemented and evaluated over the next year or two.

(3) As part of the preparation for the post-election HCCP meeting, the COMSEC (Council of Ministers Secretariat) staff will be encouraged to review all laws, rules and regulations that might impact on the amended Law 21 both positively and negatively, especially such laws, rules and regulations related to the affected eight central ministries. The output of this meeting would be a rewritten version of any regulations or rules that might need to be changed. In addition, this preliminary report should be prepared with observations, concerns, issues and problems that might need to be considered in preparation for the next HCCP meeting, as well as any needed revision of the milestones and timetable that the HCCP might eventually approve.

(4) Each governor from among the fourteen participating governorates should convene a Governorate Advisory Committee (GAC) to include representatives of their individual staff, especially their legal advisor, the DGs and Department Heads in each of the eight affected ministries, and others the governor might wish to invite. The purpose of the GAC would be to collect specific information on the organizational structure, budgets, resources, and expenditures of these sub national ministerial offices. Also, the numbers of staff, their salaries, roles and responsibilities, including specific programs and projects that are presently being implemented by each of the affected ministries. This is to be a data collection task, not an evaluation or assessment task. I have seen such data collection activities completed by high school or college students in several countries, (Egypt, Philippines, and Indonesia), generally supervised by teachers in social studies or civic classes.

(5) Each governorate council chairman is to convene a Governorate Advisory Committee and divide the council members into three informal sub-committees: (1)

Public Sector Sub-committee: to identify and list the main public sector government offices, agencies, departments and other central and local government entities operating within the boundaries of their governorate council. (2) Private Sector Sub-committee: to identify and list the major medium and large sized businesses, companies, cooperative and other private sector organizations. (3) Social Sector Sub-committee: to identify main non-government organizations (NGOs), civil society organizations (CSOs, professional and community associations, and others voluntary groups operating in their governorate. This is to be a data collection task, not an evaluation or assessment task. This is to be a data collection task, not an evaluation or assessment task. This data could also be collected by high school or college students.

6. Before the HCCP has developed its final report with the necessary changes in the laws, regulations and rules, it would be appropriate for a GO/PC advisory committee, including the DGs and other key stakeholders in each governorate to meet to review and agree on the draft milestones and timetable, and possibly create a draft action plan for the governorate.

II. Early Planning Stage Action Steps

The early planning stage of the ICIP initiative will be broken into three sub stages. Each stage will move forward as the road map activities listed below are completed.

(1) Awareness and Trust Building stage involving (a) representatives at the central ministry staff level, (b) local ministry staff level (mostly DGs and department heads working at the governorate level) (c) governors and their staff level, and (d) governorate council members level, which must involve face-to-face interactions with representatives from each of the four groups. The purpose of these early meetings is not to make decisions, or settle disputes. The purpose is for each group to understand the main concerns, questions, issues, problems each group is feeling. The purpose is not to force, intimidate, pressure or demand, but to understand, develop some sensitivity, come to realize where each group is coming from, begin to develop some trust in each others' integrity, good faith, willingness to compromise, and openness to new ideas. This stage will require an outsider facilitator, hopefully from the Taqadum staff. These early training sessions would lead to a MOU (Memorandum of Understanding), in which the four groups would together elect a joint executive committee of at least five people and outline the things they agree upon and the issues and problems that still need further discussion

(2) Potential Problem Solving stage, involving representatives at the central ministry staff level, local ministry staff level (mostly DGs and department heads) governor and staff level, and governorate council members level. The second level begins to focus on problem solving and conflict management skills. (Notice I use conflict management, not conflict resolution, as they are both very different). This may allow both direct and indirect meetings between groups b-d, with group a not able to meet in every session. The key purpose is to identify the main issues, differences, potential conflicts, within individual groups, but also across all groups, or between governor and council versus local and central staff, or between central staff and the other three groups. This stage will take the most time, and will require significant effort on all parties as they work through the problems and issues that generate disagreement and conflict. The Executive Committee, chaired by the governor and four-elected from the participating

trainees, will be charged with producing an MOU, outlining things agreed and things still needing discussion.

(3) Final ICIP Agreement stage involving representatives at the central ministry staff level, local ministry staff level (mostly DGs and department heads) governor and staff level, and governorate council members level. This stage will not be possible until central government stakeholders have come to some consensus and agreement as to what functions, authorities, resources, and budget monies will be devolved down to the sub-national levels.

Some of the kinds of topics to be considered, addressed, and resolved as the trust building, problem solving, and plan agreement stages are completed.

1. What functions, responsibilities, activities and programs are being implemented at the governorate, district and sub district levels? What are the budget requirements for each function, activity and program at each level? What are the staff requirements for each function, activity, and program implemented at each level with a list of salaries and support costs for staff at the national, governorate, district and sub-district?
2. Conduct an assessment of the goals, objectives, results, and priorities for each department in each ministry. Then determine the roles, responsibilities and levels of expertise needed at the national, governorate, district and sub district to achieve desired outcomes.
3. What specific policies, rules, procedures, and regulations are presently implemented and what role do they play in achieving or not achieving the goals and desired results. What changes, reforms, additions and improvements in policies, rules, procedures and regulations are still needed?
4. Conduct an assessment of the types of activities, programs, and changes that are needed to improve the quality of life for all Iraqi citizens through activities at the central ministry, the governorate, district and sub-district levels, and determine which sector (public, private, or social) would be most efficacious in achieving the desired quality of life needed. What types of partnerships, networks, and associations are or should be established in these areas.
5. After reviewing the various tools of government presently functioning in many countries in the world (See the section on Tools of Government below in this report) make recommendations as which types of tools might be appropriate at the central ministry, governorate, district and sub-district levels.
6. After reviewing the many programs, activities, and functions that are operating at the national, governorate, district or sub-district, make a determination as to which of these programs, activities, and functions appear to be unnecessary and need to be eliminated, are duplications and therefore should to be merged, are ineffective and need to be improved, or are still unavailable and need to be added.
7. List all the present and potential sources of funding, revenues, taxes, fees, and donations, at the national, governorate, district and sub district, in the public, private and social sectors, and develop a strategy to expand such sources through appropriate partnerships, coordination activities, fund raising strategies, user fees, and other processes that might increase the support of needed programs.
8. Assess the level of intergovernmental coordination that increases or decreases the quality and quantity of delivered services into the governorates, districts, and sub

districts. Determine the impact of such services, what goals and indicators of success are being used to determine success or failure of such services. What systems of accountability, transparency, inclusive community participation are available to measure good governance and achievement of national and sub-national goals and desired results. The GSP initiative has already developed a performance management system (PMS) whereby monitoring and oversight can be assessed using indicators of progress concerning the adopted service standards.

9. The major barriers, constraints and weaknesses in many of the central government systems service programming are related to the environment of rigid central controls, unmet timetables, and an often protracted distribution of budgetary allocations. Many officials at the governorate-level complain of slow cash distributions, leading to unfinished projects, incomplete (O&M) operations and maintenance responsibilities. It is anticipated that a better coordination of government programs between central and sub-national agencies would greatly improve budgeting and financial management, personnel management and procurement to achieving better outcomes, and greater efficiency. One of the key challenges is the fact that budget disbursements are nearly always late in being adopted so governorates are unable to obtain funds until well into the fiscal year.

10. What changes are needed in Iraq's human resource planning efforts that ensure the people in the public, private and social sectors have the right skills, competencies, technical training, strategic planning and creative thinking needed to achieve the quality of life desired by the people of Iraq? These ten action questions must be answered and creative solutions implemented over the next year or two, if an effective intergovernmental coordination program is to be implemented over the next decade.

Road Map: A Set of Action Steps for Intergovernmental Coordination

A fully functional plan for intergovernmental coordination will require the mobilization of a wide range of resources and competencies, in addition to the training and supporting of national, governorate, and district level leadership. It is also anticipated that an active partnership with various national and international NGOs and donors must be part of this process. Below are a list of action steps or phases needed to implement a system of comprehensive intergovernmental coordination. Phases 1 through 4 will be central government focused and phases 5 through 15 are sub-national focused. The sub-national action steps should be implemented as soon as the pre-planning and early planning activities have been completed, probably between September 2014 and August 2015.

I. Central Government Focus

Action Step One: The High Coordinating Commission for Coordinating among Provinces. This organization will be the foundation upon which an Intergovernmental Coordination Implementation Plan (ICIP) will be established. With all the governors and governorate council chairmen to provide the needed local perspective, the HCCP will generate the marching orders needed to motivate the eight affected ministries to participate in the implementation of the amended Law 21 (Law of Governorates). The HCCP will also work closely with the Council of Representatives, the Council of

Ministries, the *Shurah* Council, the State Ministry for Governorate Affairs and especially with each of the ministry planning committees (MPCs) described below in phase two. This high commission should play an important role in establishing the goals, objectives, and agendas of the Intergovernmental Coordination Implementation Plan (ICIP), including negotiations with various international donor agencies willing to participate in this process.

Action Step Two: Establish Ministerial Planning Committees (MPCs) in the eight affected ministries: Their major function will be to review the amended law 21 and determine what functions, authorities, powers, resources and budget monies need to be devolved down to the sub-national level in order to be in compliance with this Law of the Governorates. Second, they will coordinate their own efforts to help implement the Law 21, with the HCCG, especially the COMSEC staff, to ensure the laws, rules, and regulations related to their individual ministry are consistent with any new laws, rules and regulations being developed by COMSEC. Third, they must coordinate and participate with the early planning efforts involving: trust building, problem solving, and the development of an ICIP agreement down at the governorate level. It is anticipated that each ministry will be developing relationships with various international donor agencies, seeking budgetary, technical and management support. As each ministry begins participating in this process of devolution, they will need to develop and clarify a broader role in planning, training, designing, monitoring and evaluating sub-national implementation efforts.

Action Step Three: Reconciling National Budget Schedules with the ICIP. Each ministry must work closely, not only with HCCG who will need to establish the next budget schedule, but with the Ministry of Finance and the Ministry of Planning in particular, to ensure their projected budget requirements for the next fiscal year are reconciled, justified, and consistent with the Ministries of Finance and Planning guidelines.

Action Step Four: Strategic Planning within Each of the Eight Ministries: Each of the department heads in each ministry must engage in strategic planning to ensure their goals, priorities, ongoing programming and new programming are not only consistent with, but hopefully supportive of the ICIP being developed in each governorate. Criteria of effectiveness and efficiency must be reconciled in conjunction with other departments and ministries. Some participatory systems, involving local governors and governorate council members might be institutionalized to ensure budget planning and program development at the central and sub-national levels are purposely consistent.

Action Step Five: Each of the eight ministries will organize a Good Governance Assessment Committee (GGAC) to include representatives of key departments in the ministry, community leaders from the private and social sectors, including respected university faculty, business and religious leaders with some interest in the work of the ministry. The purpose of this quarterly meeting would be to review the general discipline of good governance, including systems of accountability, incentives for integrity, levels of transparency, and inclusive participation. This type of assessment is concerned about

levels of corruption, mismanagement, incompetency, and inappropriate levels of influence from elites. Each ministry would annually reward employees and local citizens for their examples of encouraging and living the principles of good governance. Each ministry would be encouraged to develop training materials on good governance practices and distribute such material to their DGs and Department Heads out into the governorates. Especially important would be to document special examples of good governance or campaigns to reduce or eliminate corruption and mismanagement out in the governorates

Sub National Focus: Governor and Staff and Governorate Councils

Action Step One: Each governor, working with his staff and the DGs and Heads of Departments within each of the eight affected ministries must develop a Governorate Advisory Committee (GAC). The purpose of this committee is to help each DG and department head to develop a work plan that focuses on multiple service-results that will improve the quality of life for the people in their governorate. This plan is to identify the functions, responsibilities, roles, programs and projects that ensure such service-results are achieved. Each DG is to communicate clearly the goals (service-results) that need to be achieved to his supervisor in the central ministry, with a clear plan of action steps, including staff needed, funds required, and a strategy to mobilize additional donated resources, volunteer workers, and feedback from the private and social sectors on how well the DG and his staff are succeeding. Special efforts should be made to invite and involve women whenever possible.

Action Step Two: Each governorate council chairman is to develop an intergovernmental coordination committee (ICC) to include some governorate council members and private citizens from both the private and the social sectors. The purpose of this ICC is identify specific programs and projects being implemented by the eight-affected ministries and to determine how these individual programs and projects might be strengthened and their impact expanded through the coordinated efforts of various officials in the public sector, business people in the private sector, and private citizens in civil society organizations (CSOs) and non government organizations (NGOs). Special efforts should be made to invite and involve women whenever possible.

Action Step Three: Groups of three to five governors, some of their staff, especially their legal advisors, should plan a monthly meeting to share common successes and problems, brainstorm on ways to work better with the sub-national DGs and Department Heads and their respective central ministries. The focus of these meetings should be on their successes and best practices in coordinating their own governorate programs with the programs of the eight affected ministries. The location of these meetings should rotate each month, allowing all the governors to serve as host on a regular basis. Special efforts should be made to invite and involve women whenever possible.

Action Step Four: Groups of three to five governorate council chairmen, including 2 or 3 different council members, and one or two people from their private and social sectors

should plan a monthly meeting to share common successes and problems, brainstorming on better ways to work with their respective governors, DGs and Department Heads. The focus of these meetings should be on their successes and best practices that each of the councils have developed to be seen as helpful and facilitative, rather than as evaluators or critics of government officials. Special efforts should be made to invite and involve women whenever possible.

Action Step Five: The governor should invite all the DGs and Department Heads of the eight ministries (and if possible also a representative from each of the central ministries in Baghdad), also the governorate council chairman and a few council members, and appropriate members of the private and social sectors to a quarterly (every three months) meeting to establish and monitor their own individual Intergovernmental Coordination Implementation Plan (ICIP). The purpose of these quarterly meetings is to establish a vision, a set of action steps, some indicators of progress, and a schedule for all directorate services to be phased into governorate control by August 2015. Obviously such a plan would include the functions, authorities, roles, personnel and central ministry resources needed, but also the non ministerial resources (loans, donations, income generating activities) the governorate would seek to obtain through partnerships or coordinating activities with the private and social sectors. Special efforts should be made to invite and involve women whenever possible.

Action Step Six: Each governorate council might seek to sponsor a private sector business and enterprise development program, involving banks, universities, professional and business associations, a media campaign. A governorate sponsored saving account campaign might be encouraged to increase the amount of money local banks would have available for investment. Workshops and training centers might be established to allow local successful business people to train and help new entrepreneurs just starting out. Special efforts should be made to invite and involve women whenever possible.

Action Step Seven: If an intergovernmental coordination implementation program (ICIP) is to be implemented over the next year or so, a careful assessment of all sectors of society must be made, with strategic planning based upon thoughtful criteria as to which programs, activities, and projects should be given greatest priority. As a way of stimulating some thinking on this question, staff members of these sub-national units are encouraged to consider the following five thoughts:

- (1) Which type of programs, activities, projects are most apt to increase the gap between the rich and poor and which are more apt to reduce this gap? What could we do about this in our governorate?
- (2) Of the two sectors of health and education which deserves the greater budget support? Which of these two ministries are most apt to benefit the poor, in the short run and in the long term? What could we do about this in our governorate?
- (4) Should elimination of poverty be a high or low priority in Iraq? What could we do about this in our governorate?
- (5) How are the natural resources of gas and oil in Iraq to be best distributed so as to benefit the largest number of people in Iraq? What could we do about this in our

governorate?

(6) How can an effective intergovernmental coordination implementation program (ICIP) best help to ensure an equitable sharing of this tremendous wealth. What could we do about this in our governorate?

(7) In what ways could women be treated more equitably in this Governorate? What could we do about this in our governorate?

Let us first consider a range of standard processes and procedures needed for effective ICIP, with a tool kit that the Iraqi government can use to pursue this desired devolution of authority and resources down to the governorate levels. Most lists of key tools are : persuasion, training, provision of information, openness, supporting, front line and local agencies to learn, to develop joined-up bodies of knowledge and to carefully nurture the cultures that support either the emergence of individual public entrepreneurs or voluntary mutual adjustment by agencies. Let us mention a full classification of the tools of governance that are listed and described in the literature. For those wishing to understand the examples and purposes of government tools, I suggest you google the term Government Tools on the internet or read two useful textbooks: (1) C. C. Hood, *The Tools of Government* (1983) and (2) L. M. Salamon, *Beyond Privatization: The Tools of Government Action* (1989). Hood suggests three types of tools:

- A. Effectors for producing changes in culture or behavior
 - Director government provision
 - Government owned corporations
 - Regulations, mandation, permission, prohibition
 - Rights and systems of redress
 - Grants in aid, matching grants
 - Tax expenditures
 - Projectism and Education Training
- B. Collectors: for obtaining money and other resources
 - Taxation, direct or indirect
 - Levies
 - Services fees and charges
 - Appeals
- C. Detectors for acquiring information
 - Requisition
 - Inspection
 - Purchasing, barter
 - Appeals (including rewards for information.
- D. Selectors: for managing, selecting, analyzing, presenting information
 - Audit
 - Cost benefit analysis
 - Performance indicators and measurement
 - Cost measurement, resource budgeting
 - Management review
 - Scenario building, risk assessment

Tools of Management

We are coming to recognize that program effectiveness is shaped not only by the quality of public management, but also by the choice of tool that different programs use.

Dr. Lester M. Salamon of the Johns Hopkins University, a leading expert on the tools of government, was invited to convene a conference to explore the relationship between policy tools and program effectiveness in 2006. The conference assembled some of the country's major thinkers and practitioners in the public management field and triggered a fruitful discussion of how to improve government effectiveness in this era of new challenges and increasing interdependencies.

One important conclusion emphasized by Professor Salamon is today's challenging policy problems that tend to spill over traditional boundaries. The outcomes that really matter increasingly are not determined by one single ministry, agency or program, but rather by a complex array of conflicting problems and issues. The tools approach, which provides the framework for Salamon's conference, allowed policymakers and practitioners to better understand the evolving strategies of public action by going beyond a focus on any particular agency or program. Teachers working to train policy professionals should have three goals: (1) to impart key knowledge about the tools; (2) to foster an appreciation for the variety of tool options and the use of third parties; and (3) to nurture "craftsmanship," i.e., the capability to solve problems by translating the general to the particular. To achieve these goals, Salamon et al.'s *Tools of Government* book is an extremely useful resource for teaching. However, there are additional teaching tools that instructors could use in conjunction with the text to train policy professionals: Case studies, particularly those that illustrate (a) the exemplary use of tools, (b) catastrophic failures, and (c) comparisons between radically different alternatives; and various simulations which engage students in solving problems and/or utilizing different tools.

Section Four: Conclusion

The ICIP system seeks a process (agenda of action steps) in which separate government organizations, seeking to coordinate their efforts through mutually agreed goals and objectives by mutually agreed means (administrative procedures, management strategies, funds and other resources) are more apt to find solutions to problems that citizens worry about most, if their cultures, incentives, structures and other capacities are oriented towards the solving of existent problems, rather than towards simply the efficient administration of bureaucratic processes. Most of the problems Iraq faces today can only be solved when and if there is a coordination of the work and service provisions of many departments, agencies and professions, policies and practices. The processes related to good coordination are not simple, but the rewards are enormous.

ⁱ D. Kettl, *The Global Public Management Revolution*, (Washington DC: Brookings Institute Press, 2000).

ⁱⁱ S. Borins, *Innovating with Integrity*, (Washington DC: Georgetown University Press, 1998)

ⁱⁱⁱ Some see this emphasis of the World Bank as merely an extension of its global hegemonic neo liberal discourse. See: J. N. Rosenau and E. Czempiel, *Governance Without Government: Order and Change in World Politics*, (Cambridge: Cambridge University Press, 1992); S. George and F. Sabelli, *Faith and*

Credit: The World Bank's Secular Empire, (Boulder, Col: Westview, 1994). The World Bank first used the term “governance” in its 1989 report: *Long Term Perspective Study – Sub Saharan Africa: From Crisis to Sustainable Growth*, where they defined the problems of Africa as a “crisis of governance.”

^{iv} J. L. Brudney, et al., *Advancing Public Management*, (Washington DC: Georgetown University Press, 2000).

^v James B. Mayfield, *Local Government in Iraq* (Cairo: AUC Press, 1996). This managerial dimension of governance will be discussed in much greater detail in Section II of this book, with a focus on local village institutions and their role in managing and providing needed government services in rural Iraq.

^{vi} The literature on local government development and civil society enhancement is growing rapidly and clearly reflects the major focus of this book. See: A. Coulson (ed.) *Local Government in Eastern Europe: Establishing Democracy at the Grassroots*. (Aldershot: Edward Elgar, 1995); P. Mawhood, (ed.) *Local Government in the Third World*, (Chichester, John Wiley & Sons, 1983; P. McCarney (ed.) *The Changing Nature of Local Government in Developing Countries*, (Toronto, Canada: University of Toronto, 1996); and M. Turner and D. Hulme, *Governance, Administration and Development: Making the State Work* (West Hartford, Con.: Kumarian, 1997).

^{vii} This focus on the locality, as opposed to the global perspective, reflects a vast literature on civil society that has generated a great deal of discussion and debate. See: John Keane, *Civil Society and the State*, (London: Verso, 1988); K. Kothari, *State Against Democracy in Search of Human Governance*, (Delhi: Ajanta Publications, 1988); M. Walzer, *Toward a Global Civil Society*, (Oxford: Berghahn Books, 1995); Jean Cohen and A. Arato, *Civil Society and Political Theory* (Cambridge: MIT Press); and more recently, Maha M. Abdelrahman, *Civil Society Exposed: The Politics of NGOs in Iraq*, (Cairo: AUC Press, 2004).

^{viii} Obi N. Ignatius Ebbe, *Comparative & International Criminal Justice Systems, Policing, Judiciary and Corrections*, (London, 2000); William C. Prillaman, *The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law*. (New York, 2000); and James H. Anderson, et al., *Judicial Systems in Transition Economies: Assessing the Past, Looking to the Future*, (Washington DC: World Bank, 2005)

^{ix} For an earlier effort to define capital in multiple ways, see: James B. Mayfield and Joaquin L. Gonzalez, “Public Interest Partnerships (PIPs): Is a New Governance Paradigm Emerging in ASEAN?” in *Applying Public Administration in Development*, by Paul Collins, (Chichester: John Wiley, 2000.) pp. 207-225. See also: Daniel V. Rainey, et al., “Essential Forms of Capital for Sustainable Community Development” *American Journal of Agricultural Economics*, (August, 2003); Thomas A. Stewart, *Intellectual Capital: The New Wealth of Organizations*, (New York: Doubleday, 1997); Gary S. Becker, *Human Capital: A Theoretical and Empirical Analysis*, (Chicago: University of Chicago Press, 1994); and Corwin E. Smidt, *Religion As Social Capital: Producing the Common Good*, (Waco, Texas: Baylor University Press, 2003); John Guillory, *Cultural Capital*:



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Roadmap for the Implementation of Law 21 Presentation (En)



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A Roadmap for Developing an Intergovernmental Coordination Implementation Plan for Amended Law 21

**Dr. James B. Mayfield
International Consultant
Chemonics International, Inc.**



Case Studies

1. **Philippines – charter city approach**
2. **Indonesia – big bang approach**
3. **South Africa – enlightened leader approach**



Lessons Learned from the Philippines Case

- 1. Philippines – charter city approach**
 - a. Frustration with President Marcos**
 - b. Country-wide consensus for shared power through decentralization**
 - c. Effective coordination through trust in the local government system**



Lessons Learned from the Indonesia Case

- 2. Indonesia – big bang approach**
 - a. Consensus for change**
 - b. Quick decision that produced chaos for a time**
 - c. Shared power with ministry and local governments both winning**



Lessons Learned from the South Africa Case

3. South Africa – enlightened leader approach

- a. President Mandela saw value of reconciliation between groups in conflict**
- b. Decentralization was a way of ensuring all groups can participate in the local government system**



Joint Initiatives for Federal and Local Governments

- 1. Convene the High Commission for Coordination between the Governorates (HCCG) per article 45 ASAP!**
- 2. The HCCG should instruct the Governorates to create a Task Force**



Joint Initiatives for Federal and Local Governments (continued)

- 3. HCCG documents in writing the Roles and Responsibilities of the Federal and Local Governments to implement article 45 at the Governorate level**
- 4. COMSEC and Local Governments jointly develop and issue regulations for the amended Law 21**



1. Convene the High Commission for Coordination between the Governorates (Article 45)

- a. Use the current HCCP regular meetings to ask the Prime Minister to convene the expanded HCCG for implementation of article 45**
- b. ASAP!**



2. The High Commission Should Instruct Governorates to Create a Task Force

- a. Co-chaired by PC Chair and Governor with the 8 mentioned departments (DG or Directorate)**
- b. Each Task Force will develop a SOW and the Intergovernmental Coordination Implementation Action Plan for amended Law 21**



3. Clarify in writing the Roles and Responsibilities of the Federal and Local Governments to Implement Article 45 at the Governorate Level

- a. HCCG discusses issues and anticipated results to clarify roles & responsibilities**
- b. SMOPA's written report from the HCCG meetings guides the transfer of roles and responsibilities for the 8 ministries**
- c. Draft report is forwarded to COMSEC for PM review and approval**



4. COMSEC, in Coordination with Local Governments, Issues Implementation Regulations for amended Law 21

- a. Regulations should provide clear instructions on who is responsible for what in the implementation of amended Law 21**
- b. Local governments and the federal government must have a common understanding of the regulations to assure consistency in implementation**



4. COMSEC, in Coordination with Local Governments, Issues Implementation Regulations for amended Law 21 (continued)

- c. COMSEC issues, publishes and distributes regulations to DGs and directorates**
- d. Provincial ministry representatives and local government officials must comply with the regulations**



Action Items for Local Government

- 1. Establish a Governorate Task Force with the Governor, Governorate Council Chair, 8 Department Heads, and Representatives of the Social and Private Sectors to:**
 - a. Produce a written work plan and implementation strategy**
 - b. Create databases defining the authorities, personnel, and budget for the 8 mentioned ministries**



Action Items for Local Government – (continued)

2. In coordination with the HCCG, these Task Forces identify a management structure for the 8 ministries (Taqadum's Organizational Self-assessment and Transformation Program)

- a. Roles and responsibilities**
- b. Chain of command**
- c. Cross-ministry coordination**



Action Items for Local Government – (continued)

3. Governor assumes responsibility for the planning and budgeting for the services of the 8 mentioned ministries (MOP's Provincial Planning and Development Councils)



Action Items for Local Government – (continued)

- 4. Define expected results and monitor services provided by the 8 ministries (Taqadum's Essential Service Delivery Oversight standards and indicators)**
- 5. Obtain feedback and assess (Taqadum's Citizen Satisfaction Survey, Public Meetings initiative, COMSEC's Citizen Service Desks)**



Action Items for Local Government – (continued)

6. Coordinate with and inform Federal Authorities, COM, HCCG and the 8 ministries on implementation plans for the amended Law 21



Governors and Governorate Council Chairmen are encouraged to exchange experiences, ideas and best practices through regular meetings

- **Governors meet with Governors**
- **PC Chairs meet with PC Chairs**
- **Governors and PC Chairs hold regular joint meetings**



Seek International Support for the Implementation of amended Law 21

Proposed Options:

- **Continue Taqadum's support**
- **Create an Iraqi agency for support services**
- **Establish a National Training Center for Local Government**



Conclusions for the Future of Iraq

- **Three Sectors**
 - a. **Public Sector – Government**
 - b. **Private Sector – Local Economic Development**
 - c. **Social Sector – Civil Society**
- **Shared power**
- **Coordination**



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END



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Final Recommendations from the First National Conference for Developing a Roadmap (En)



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Final Recommendations from the Proceedings of:
First National Conference on Developing a Road Map
for Implementing Law 21, as Amended,
Al Rasheed Hotel, Baghdad, January 12-13, 2014

USAID-Taquadum / Government Strengthening Project, Iraq

1/25/2014

DISCLAIMER:

This report is made possible by the support of the American People through the United States Agency for International Development (USAID). The contents of this report are the sole responsibility of Chemonics International, Inc. and do not necessarily reflect the views of USAID or the United States Government.

Executive Summary

Administrative decentralization is the only form of decentralization mentioned in the Iraqi Constitution, and specifically in connection with the authorities granted to Governorates¹ by Article 122. As an important step to enabling administrative decentralization, the amendment to article 45 of Law 21 provides for the establishment of an expanded High Coordinating Commission for Provinces (HCCP) and Governorate-level Coordinating Committees to advance the transfer of service delivery units to Governorate administration. In the interim, between now and when the HCCP convenes to consider the implementation of the amended Law 21, it is recommended that the Governorates create a Task Force to prepare for the establishment of these Coordinating Committees.

1. Establish a Task Force in each Governorate for the purpose of preparing governors and their staff (GOs), Provincial Council members (PCs), representatives of the eight ministries in each Governorate, and stakeholders from the private and social sectors for the implementation of the amended Law 21. Organizational and management issues include formalizing membership of the Task Force, establishing sector specific sub committees and activating their roles.

2. Develop and Implement an Action Plan. One of the key and immediate assignments that must be undertaken by the Task Force sub-committees is to obtain a comprehensive understanding of the targeted directorates or departments, specifically, their structure, functions, responsibilities, and resources, and consider how they are now constituted and might be constituted in the future.

3. Build Consensus among all Stakeholders (Central and Local). Key representatives from all the Governorate Task Forces convene to share their proposals and to develop agreement specifically on, what tasks, services and competencies are to be devolved and the associated timeline. It is anticipated this harmonization at the Governorate level will facilitate the decision-making process of the HCCP when it is convened.

4. Coordinate the Transitional Process. As these Task Forces, working in conjunction with governors, council members and local representatives of the eight central ministries develop recommendations for the devolution of authority down to the Governorates, a final coordination process will take place when these Governors and Council Chairs present their recommendations, as members, to the HCCP.

It is anticipated that these Task Forces in each Governorate will greatly facilitate the implementation of the amended Law 21. This effort is expected to be gradual and phased with units transitioning from federal ministry to Governorate level administration. This consensus building process initiated by these Task Forces can be greatly strengthened by a neutral consultative group similar to the USAID-funded Taqadam-GSP which has been working with Governors and Governorate Councils over the past two years. The completion of this Road Map is recommended in anticipation of HCCP's final confirmation of this process.

¹ In Arabic, the word *muhafatha* can be translated as “Governorate” or “province”. Since the word *muhafatha* is from the root word “to keep, guard or govern” and is translated as “Governorate” in Arabic-speaking countries, the word “Governorate” not “province” is used in this report.

Introduction

This Final Report reflects both the road map presented at the National Conference on the amended Law of Governorates (Law 21) in Baghdad (January 12-13, 2014) and a summary of lessons learned, recommendations made, and a review of action steps to be completed between now and August 2015, when the Amended Law 21 must be implemented. Given the short time available (less than eighteen months, it is strongly recommended that the following two things happen. First, the Government of Iraq (GOI) as soon as possible convenes the HCCP, made up of the Prime Minister, the eight ministers mentioned in the amended Law 21 to be devolved, including all the fifteen governors and the Governorate council chairs, to determine how the amended Law 21 is to be implemented, what specific tasks, services and competencies are to be devolved down to the Governorates, develop processes for the administration of the joint powers; and that Council of Ministers Secretariat (COMSEC) be charged with the responsibility to provide the necessary rules and regulations for the implementation of amended Law 21. Second, that a special Task Force be established in each Governorate as soon as possible, to start a process of preparing the Governorates to participate in the implementation of amended Law 21. In August of 2015, if the High Coordinating Commission for Provinces (HCCP) has not determined which of the tasks, services and competencies specified in the amended Law 21, Article 45 are to be devolved to the Governorate level, they will be: “considered transferred by law”.

This report reflects the contrast between what was presented as: (A) a set of recommendations (action steps) in this National Conference and (B) a revised set of recommendations that reflect the interchange between the speakers/presenters and the participants (central government officials, members of the Council of Representatives, governors, Governorate council members, and other key stakeholders) attending this National Conference.

A. Conference Recommendations

The following recommendations reflect information and material presented in the conference.

1. The Prime Minister will convene a series of HCCP meetings as soon after the upcoming elections as possible, chaired by Prime Minister with an expanded membership to include the Ministers of Municipalities and Public Labor, Reconstruction and Housing, Labor and Social Affairs, Education, Health, Planning, Agriculture, Finance and Sports and Youth, State Minister for Provincial Affairs (SMPA), as well as Governors, and PC chairs, and others the Prime Minister may wish to invite. The Prime Minister and his chief advisors will determine the agenda of this meeting but will invite local governors and Council Chairs and representatives of the eight participating ministries to present recommendations and suggestions for the HCCP’s agenda. The main purpose of this meeting will be to clarify, assess, and determine the purpose, the meaning, possible goals and results of the amended Law 21 Law of Governorates, and establish bylaws for organizing the meetings and follow up on decisions. The main focus of these post-election meetings would be to produce an outline of major milestones with some

timetable or road map. One possible outcome of this meeting should be a formal written statement (A White Paper) of how this law should be interpreted, implemented and evaluated over the next year or two.

2. Concurrently with the various sessions of the HCCP, the COMSEC (Council of Ministers Secretariat) staff will be encouraged to review all laws, rules and regulations that might impact on the amended Law 21 both positively and negatively, especially such laws, rules and regulations related to the affected eight central ministries. The output of this COMSEC process would be a formal report including: rewritten versions of any regulations or rules that might need to be changed, any needed revision of the milestones and timetable that the HCCP might eventually approve. In addition, this preliminary report should be prepared with observations, concerns, issues and problems that might need to be considered in preparation for the next iteration of HCCP meetings, as well as any needed revision of the milestones and timetable that the HCCP might previously have approved. Especially important would be a carefully crafted description outlining the duties, functions, roles and responsibilities of governors and their staff, the staff of the eight ministries, and the Governorate councils. Equally important will be the development of an outline of how governors, representatives of the eight ministries, and Governorate councils are to work together for the common good of their respective Governorates.
3. By the time this final COMSEC report is completed, all governors and Council Chairmen, and representatives of the eight ministries should have signed off on the changes in laws, rules, regulations, recommendations, milestones, and other agreements outlined in the COMSEC report.
4. Establish a Governorate Task Force co-chaired by the Governor and Governorate Council Chair with members including the 8 Department Heads, and Representatives of the Social and Private Sectors to:
 - (a) Produce a written work plan and implementation strategy, and
 - (b) Create databases defining the authorities, personnel, and budget for the 8 mentioned ministries

The Governorate Task Force with broad participation will bring cooperation among the three sectors (government, private and social) to establish the sharing of power necessary to create stability, prosperity and unity. The private sector is a necessary participant as they drive the economic development necessary to create employment and increase citizen's incomes. Additionally, through public-private partnerships service delivery can be quickly improved. Similarly, the social sector representing the community interests, beliefs and cultural norms is necessary to establish an inclusive and legitimate government.

This more inclusive Task Force should begin by establishing a work plan to define and schedule efforts. Their first assignment must begin with gathering data on the current operations of the service departments to be devolved. This data can be gathered directly from the ministry and directorate and should be verified to the extent possible. In

addition to Governorate staff, volunteers from local universities, CSOs, businesses, etc. can be asked to assist. The information must be organized in a manner that facilitates analysis. An organization such GSP could help to develop survey instruments, facilitating collections, and assisting in data analysis. Once the Task Forces have completed their work the consensus recommendation should be presented to the HCCP who in turn must adopt a standardized management structure for application across all of the 15 provinces.

With this general agreement formalized, the changed laws, rules and regulations, recommendations, and milestones will be published, widely distributed, and some formal system of orientation, training, and consensus building will be institutionalized in each Governorate as to how these new laws, rules and regulations are to be implemented.

Assessment of Conference Recommendation

Several participants in the National Conference emphasized that the government has less than eighteen months to provide the structures, rules, regulations, preparations, funding, administrative procedures, and political support necessary for the implementation of the amended Law 21. Also significant for an assessment of the lesson learned and discussed in this National Conference and an appreciation of the importance of this amended Law 21 is the realization that any serious attempt to establish a meaningful decentralized form of local government in Iraq faces a number of challenges:

- (a) A central bureaucracy inured to top down, centralist orientations, accustomed to assuming that all or at least nearly all decisions should/must be made and managed in Baghdad,
- (b) The belief of some politicians that a more centralized system of government is better able to maintain unity and solidarity in Iraq,
- (c) The belief of some central government officials that local government executive and legislative officials, employees and council members are generally not qualified, prepared, or trained to perform the duties, responsibilities, and roles needed to accomplish the work of local government, and
- (d) A legalistic approach to administration and government operations that emphasizes laws, rules, and regulations thus often ignoring the importance of problem solving that requires citizen input and management and organizational processes that emphasize open dialogue, creative conflict management, thoughtful compromise and some risk taking among competing interests.

These challenges are offset by the experience of many countries throughout the world (Muslim and non-Muslim) who have seen the importance of decentralization for greater democracy, stability, and unity, who have experienced significant quality of life improvements through service delivery systems based upon decentralized local government institutions, who realize any form of effective and efficient local government takes time to implement, often requiring several years for the processes of decentralization to be established and legitimized. Nearly all the countries of the world with significant increases in economic development, improved quality of life, and stability and high levels of political freedoms and human rights have adopted some form

of decentralized local government. It is clear from the experience of the Taqadum Governance Strengthening Program (GSP) that in every Governorate where they have worked citizens, employees, officials, governors, and council members have demonstrated their desire and ability to learn and/or to perform the duties, roles and responsibilities needed for a successful local government system

Many Iraqi officials are accustomed to a top-down, centralist perspective, where power, influence and decision-making are concentrated in Baghdad. While many acknowledge that some power, authority and resources should be devolved into Iraq's sub-national system, both to improve the efficiency and effectiveness of Iraq's service delivery processes, but also to ensure such services are reflective of local people's needs and desires. The question most pressing in today's situation is not the "what", but the "how" this should be done. We wish to suggest that the process of "how" be re-conceptualized to reflect a process of gradual intergovernmental coordination, which allows governmental decision makers to carefully assess which tasks, services and competencies should remain at the central government level or be devolved down to the Governorate level. The advantage of intergovernmental coordination as the basis for this period of transition from dictatorship to democracy is the ability of such a process to reflect the interests of both the central ministries and the interests of the sub-national units at the Governorate, district and sub district levels of Iraqi society. Today Iraq faces a significant cross roads: one leading to the maintenance of the present status quo based upon a top-down, central ministry, control system versus another road leading to an intergovernmental coordination process by which service-delivery systems are significantly improved through a sharing of functions, responsibilities, roles and organizational requirements needed for a more effective (responsive, accountable, and based upon good governance) implementation of central ministry programs and projects. The present amended Law 21 (Law of Governorates) provides a framework by which eight ministries (Education, Health, Agriculture, Housing, Public Works, Sports and Youth, Planning and Finance) begin to implement a process that will gradually allow national level and local level officials (executive and legislative bodies) to share in the processes of planning, designing, managing, monitoring, and evaluating of ministry-specific programs and projects.

One important lesson to be learned from the proceedings of this National Conference is that intergovernmental coordination is not about winners and losers: with central ministries winning and local systems loosing, or *visa-versa*, with local systems winning and central ministries loosing. This is about helping both ministries and local administrative systems to be winners, both improving their contribution to the complex and difficult process of providing needed services to the people of Iraq in a timely, effective, relevant and impactful way. Both working together to ensure the people of Iraq receive the services they need, desire, and deserve.

A number of comments, observations, and recommendations were made concerning the road map presented during the course of this National Conference on local Governorates. One common concern was the difficulty the central government will have in convening the HCCP in timely manner, both because the Prime Minister will be extremely busy with national issues of security, defense, international affairs, and other very important responsibilities including the upcoming general election, and the general difficulty of scheduling the council of ministries and

the governors and chairmen of the Governorate councils in a collective decision-making body that could focus on the amended Law 21.

Even in advance of the National Conference, concern over capacity of Governorates to assume the responsibility for the service delivery of eight critical ministries was expressed. This argument ignores to considerable management infrastructure that has been built over the past eighteen months by the central government and governance capacity building programs that have significantly expanded capacity in planning and budgeting, service delivery improvement, obtaining citizen feedback, and monitoring capital project implementation. However, this argument points to the need for ongoing support to Governorates from neutral technical advisors like the USAID funded Taqadum-GSP. A summary of recent capacity development activities is provided below.

Once service delivery units are transferred to Governorate administration, the Governor assumes the responsibility to annually present capital and operating budgets and plans for service delivery directorates. To meet that demand, Governors can turn to the nascent PPDCs established in thirteen Governorates (except Kirkuk or Baghdad) at the direction of the Ministry of Planning and supported by Taqadum-GSP. PPDCs are engaged in an inclusive, data driven, and citizen participation approach to integrated public planning and budgeting and are chaired by the Governor with members from the directorates, universities, NGOs, and the private sector and charged with formulating a proposed annual budget for PC consideration. The PPDCs, with the assistance of organization such as Taqadum-GSP are developing capital investment planning and budgeting processes, including criteria for evaluating projects based on strategic objectives of the province in alignment with the National Development Plan. The Governor's office must develop a process for formulating and implementing the operating budget, including maintenance and hopefully improvement of the existing system, whether through a zero-based, performance, or other approach to budgeting.

If Governorates are to do its job of serving citizens, the service delivery requirements must be defined. The Taqadum-GSP Essential Service Delivery Oversight (ESDO) effort has built the capacity of eleven Governorates to establish water, sewer and solid waste standards (except Basrah, DhiQar and Ninewa). Nine Governorates have additionally established storm water standards. Using the standards, Governorates are conducting field visits where they interview citizens to better understand their needs and quantify the existing service delivery gaps. Based on the data collected, an intervention is cooperatively designed by the province and directorate and promptly executed. Once complete, the target area is surveyed again to verify that the intervention has closed the service delivery gap. In the past year, this effort resulted in significant improvement in the distribution of waste receptacles, removal of waste from roadways, expansion of the potable water system, water quality improvement, repair of sewer networks, etc. This approach can be used to efficiently improve any direct public service. Governorate ESDOs have demonstrated their competency in establishing standards and designing interventions to bring service delivery up to those standards. Additionally, other performance measurement systems can be added, such as service delivery planning and benchmarking.

Governorates will need to manage the transferred units in a way that improves the services delivered by providing the right services in the right way. Obtaining feedback is critical. The Taqadum-GSP's activities including Citizen Satisfaction Surveys (CSS), the Public Meetings initiative, and COMSEC's Citizen Service Desks (CSDs) built the capacity of the Governorates solicit citizen feedback. Taqadum has worked over the past two years to establish four routine means of gathering citizen feedback for Governorate decision makers:

- (a) The CSS was conducted in 2012 and 2013 when PC and GO staff were trained on administering the survey, recording data, analysis and reporting results using SPSS software. Small surveys are also conducted as part of the ESDO effort describes above. As a result, Governorates now have the fundamental training to allow them to conduct a survey or oversee a contractor. These public surveys allow government to gather data on how the public views services delivery levels and improvement in the province. The information can guide better planning, budgeting, management and policy making to produce improved services to citizens. As evidence of the importance of this kind of data collection, note that officials in the Dhi Qar province plan to televise the results of their recent survey.
- (b) Public meetings are the time tested tool to connect citizens with their government by providing government with information to guide decisions and face-to-face interaction which strengthen the relationship between citizens and government and builds legitimacy. With the support of Taqadum-GSP, all 15 Governorates have held public meeting to gather information on projects the public wants funded in the annual budget. In total, 82 public meeting have been held with the financial support of Taqadum-GSP and another 26 meetings have been held by Governorates independently.
- (c) Through the efforts of COMSEC, Governorates established Citizen Service Desks (CSDs). Currently, fourteen Governorate GOs (except Baghdad) and thirteen PCs have established CSDs (except Babil and Salah ad Din) use the Taqadum-GSP developed and trained Issue Tracking and Reporting System (ITRS) to manage the information. The system allows CSDs to analyze the data and generate reports for decision makers on the issues important to the citizens of the province.

Lastly, the Governorates have expanded their technical ability to manage capital projects through the application of standards and quality assurance and quality control. Taqadum-GSP is intensively working with the engineering and project staff members in six provinces teaching internationally accepted project management principles to build the capacity of PC and GO units to deliver quality projects on time and within budget.

B. Revised Recommendations from the National Conference Presenters and Participants

Fundamentally, decentralization is a process to transfer functions, responsibilities, and resources from central to local government and is achieved through varying levels of legal, fiscal, and administrative devolution. This section of the road map to Implementing Law 21, as Amended, articulates both the conference and post- conference and recommendations to address administrative devolution.

Ideally, a formal federal government implementation approach characterized by leadership and the political will of the central government increases the likelihood of decentralization being implemented in a timely, more equitable, and organized manner. However, an alternate, Governorate level implementation approach, specifically as it relates to administrative devolution of functions, responsibilities, and resources is the recommended premise of this revised road map. In this approach, the onus to initiate administrative devolution of the 8 ministries can initially be started at the Governorate level. The rationale for recommending this approach is because:

- (a) There is greater political will for decentralization at the Governorate level, and
- (b) The parameters of administrative decentralization can be analyzed in a reasonable amount of time and provide the necessary visibility to construct the jurisdictional framework for legal decentralization.

Ultimately, the momentum to advance the decentralization agenda is best served by a combination of both implementation approaches. For Iraq, at this point in time, the Governorate level implementation approach is an appropriate fit for the administrative decentralization of the 8 identified ministries. This local approach works whether the HCCP starts soon or is postponed. However, note that critical success factors include:

- (a) The level of cooperation generated with the respective ministries, and
- (b) The capacities of Governorate level units of government to conceptualize, organize, implement, and manage administrative decentralization.

Additional Recommendations for the Road Map to be developed

The following sub-section outlines suggested steps in the road map that Governorates should undertake to begin implementing administrative devolution of functions, responsibilities, and resources immediately and over the next 18 months. Because these recommendations are the most critical in the near term, they are more conceptually defined.

Administrative decentralization is the only form of decentralization mentioned in the Iraqi Constitution, and specifically in connection with the authorities granted to Governorates by Article 122, second:

Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law.

As an important step to enabling administrative decentralization, the amendment to article 45 of Law 21 provides for the establishment of an expanded HCCP and Governorate-level Coordinating Committees to precipitate the transfer of service delivery units to Governorate administration. In the interim between now and when the HCCP convenes, it is recommended that the Governorates create a Task Force to prepare for the establishment of these Coordinating Committees.

The Task Force is envisioned to be the platform that drives implementation of tasks, services, and competencies. Their work builds the capacity necessary to support the eventual formation of both the HCCP and Governorate Coordinating Committees who may fail in attempts to select appropriate units for transfer unless the capacity of Governorate leaders is built. The guiding principle of the Task Force is to develop consensus solutions at the individual Governorate-level and to harmonize these solutions among individual Governorates and with the central ministries, so as to better effect implementation throughout all the Governorates. In order to facilitate consensus among the Governorates, a neutral consultative group similar to the USAID funded Taqadum-GSP will be required. In the narrative that follows, an outline of the primary interventions to realize the mission of the Task Force is presented.

1. **Establish a Task Force in each Governorate.** Create a Task Force in each Governorate for the purpose of preparing governors and their staff, council members and representatives of the eight ministries in each Governorate for the implementation of the amended Law 21. Specific organizational and management issues include formalizing membership of the Task Force and activating its role. It is recommended that the Governor and PC Chair jointly chairs the Task Force whose membership would include the heads of the eight targeted directorates or departments as well as representatives from CSOs, NGOs, communities, academics, and the private sector. Additionally, to better manage the work of the Task Force, it is recommended that eight sub-committees be created (one for each of the targeted directorates or departments) and staffed with the appropriate subject matter expert drawn from directorates or departments, Governorate council, Governor's Office, and representatives from the private and social sectors.

Ministry directorates and departments may require guidance and approval from their minister to participate in the Task Forces. Some have suggested the involvement of the MSPA in engaging each of the eight ministries at a time to systematically obtain some commitment on what roles, responsibilities, authorities, personnel and budget should remain at the federal level and what might be devolved. Another possibility is for governors to organize themselves into small groups to contact the target ministers to discuss the topic.

2. **Develop an Action Plan (contrast “what is” with “what ought to be”).** Following its formation, the Task Force will prepare an action plan consistent with its mission. One of the key and immediate assignments that must be undertaken by the Task Force sub-committees is to obtain a comprehensive understanding of the targeted directorate or department, specifically, its structure, functions, responsibilities, and resources. Ahead of this data collection phase, a common toolkit is developed for use by all the Governorate Task Forces identifying the data that needs to be collected, how it is recorded and analyzed, and a reporting format. After these reports are prepared, each sub-committee submits the report to the Governor and PC Chair who convenes a meeting of the full body of the Task Force to listen to presentations of the “what-is” state of each directorate or department.

To the extent possible, the information collected from the departments should include job descriptions, organizational structures, reporting, and sectoral coordination arrangements that currently exist. An organizational self-assessment initiative involving the appropriate staff of the departments will be helpful to identify opportunities for improvement as the agreed upon roles, authorities, competencies, personnel and budgets the organization are transferred to Governorate control. The tools of organizational self-assessment have been taught in only eight Governorates by the Taqadum OSTP team and can provide valuable insight into the changes necessary in the transition.

After the “what-is” state is established, key representatives of all the Governorate Task Forces come together to share their findings and to more importantly, develop a set of guiding principles to devolve tasks, services and competencies that will form the basis for proposing a jurisdictional framework and strategy for devolution. Thereafter, each Governorate Task Force begins analyzing each directorate or department and proposes the following:

- (a) What tasks, services and competencies get devolved and a timeline for completing the devolution,
- (b) What types of functional reforms are needed, and
- (c) How devolved functions will be managed and integrated into existing local administration structures.

3. **Consensus Building among all Stakeholders (Central and Local).** The DGs and department heads within a Governorate seek consensus on the distribution of the tasks, services and competencies performed at the central and local levels. It is expected that these local officials will be communicating and coordinating with their central ministry counterparts. Accordingly, the next key step involves harmonizing item 3. (a) above. Once again, key representatives from all the Governorate Task Forces convene to share their proposals and to develop agreement specifically on, what tasks, services and competencies are to be devolved and the timeline associated with each proposed devolution. It is anticipated this harmonizing process at the Governorates level will facilitate the decision making process of the HCCP when it is convened.

Separately, insights on what types of functional reforms (item 3 (b) above) each province has identified and how devolved functions will be managed and integrated into local administration structures (item 3(c) above) can be shared.

4. **A transitional coordination process.** As these Task Forces, working in conjunction with governors, council members and local representatives of the eight central ministries develop recommendations for the devolution of authority down to the Governorates, final coordination process will take place when these governors and these Council Chairs present their recommendations, as members, to the HCCP. As this final coordination process is completed, the Governor convenes a meeting of the Governorate Coordinating Committees to review and approve the Governorate’s plan for devolution. Regulations are then drafted and approved by COMSEC to formalize the plan for administrative decentralization. It is additionally recommended that the membership of the Governorate

Coordinating Committees, chaired by the Governors with members from the heads of administrative units, chairs of the district and sub district councils, be expanded to include the PC Chair.

Once ready, the Governorate Coordinating Committees will cooperatively oversee the transition of the tasks, services and competencies to Governorate control. The effort is expected to be gradual and phased with units and departments transitioning rather than the entirety of ministry operations at one time. The Coordinating Committees will require the support of the central ministry, Task Force and Task Force sub-committees and independent advisors in the early transition rounds. Task Force members will learn from experience as units are transitioned and sustainability is built to support independent selection of units, transitioning them to Governorate control and undertaking service delivery improvement in subsequent rounds as the Coordinating Committees, supported by the Task Force, becomes increasingly competent.

Success of the Coordinating Committees and the HCCP relies on the solid foundation laid by the Task Force and its sub-committees, having collected and analyzed relevant rules and regulations, service delivery unit organization, service delivery standards, indicators data on current conditions, public opinion surveys, citizen service desk information and feedback from public meetings. Task Force members will receive on-the-job training that will be necessary when they become members of the Coordinating Committees and HCCP where they must select appropriate units to be transitioned.

It is not sufficient for the service delivery unit to simply transition to the Governorate for reporting purposes. The effort is only worthwhile if service delivery is actually improved for citizens. Therefore, it is strongly recommended that the Task Force and their sub-committees identify areas likely to produce short term gains recognizable to the public. If the public experiences improved water services, cleaner streets, shorter waiting times at local clinics, more attentive teachers, etc., the credibility of government is improved and both the ministries and the Governorates are benefitted. This result is only possible with high levels of constructive participation by the PC, GO, directorates, social and private sectors, and only if the Task Force has prepared their members to the HCCP and Coordinating Committees.

Assistance from a neutral and respected provincial government advisory team such as Taqadum-GSP will be required. Financial support from various international donors could be used to support a process to engage ministries and Governorates over the roles and responsibilities, authorities, personnel and budget for transferring units. If resources are not sufficient for the support of all provinces, donors should consider funding activities for a smaller group of “pilot provinces” who are most supportive of the concept and most likely to develop a common dialogue.

Issues Beyond Article 45

Revenue and Budget

Numerous Governorate revenue and budget issues were raised by both federal and Governorate officials attending the National Conference:

- (a) Governorates need clearly defined independent fiscal capacity that can be reliably implemented. Some Governorates have successfully raised own-source revenue only to find that it is offset in the annual budget allocations. Amended article 44 of Law 21 also provides Governorates with the power to generate revenue from various taxes, fees, fines, selling and renting property, and donations. Most helpful is the Federal Supreme Court's interpretation of the article 115 of the Constitution that states that powers not stipulated as exclusive powers of the federal government belong to regions and Governorates. The court pointed to the authority of the PCs in the imposition of local revenues, including taxes and fines.
- (b) The Constitution provides that Governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities, similar to the language in Article 44 of amended Law 21 that states that federal budget allocations will be fair and sufficient for the Governorate to fulfill its duties and responsibilities, based on their population rate.
- (c) Nepotism and other employment abuses must be eliminated and hiring limited to qualified professionals
- (d) Elected officials must recognize their duty to plan and take action in the best interest of their citizens
- (e) PPDC is a mechanism for stakeholders to identify Governorate priorities but some perceive that it results in the GC being just a “rubber stamp” institution and question how the GC can know that the Governor is presenting the actual PPDC recommendations. To avoid this perception an organization such as Taqadum-GSP that helped set up the PPDCs is needed to develop the capacity and institutionalize the PPDC process.
- (f) Governorates need to establish a vision to define needs and identify priorities to guide the budget
- (g) Article 106 of constitution should be activated by enacting a law to establish a general commission represented by all Governorates to fairly distribute financial resources and guarantee transparency and accountability in allocating resources to the deprived Governorates.
- (h) The distribution of petroleum derived revenue is guided by constitution provision that appears to be in conflict with the provisions in the second amendment to Law 21. Arguments over the implementation of the provision to increase in the petro revenue distributed to Governorates from \$1 per barrel produced or refined to \$5 are underway.
- (i) The public budget law doesn't give Governorates the authority to participate in mutual development project, reserving that to federal authority. Since such project are delivered to the relevant ministry, the implementation of amended Law 2 will be a good opportunity for Governorates to benefit from the re allocation of ministry funds that expand Governorate project allocation.

Governorate Authority to Legislate

Governorates need clear legislative authority so that they can write regulations to guide their own administrative and financial affairs as granted in article 122 of the Constitution but challenges:

- (a) Law 21, Article 7, Twelfth, directs that a council decisions and orders be published in the gazette, but does not mention legislation. The amendments do not change this sub section, leaving an opening for those who cite the passage as evidence of the Governorate council's inability to enact legislation, despite the provisions of Article 2, First, which confirms that the Governorate council "is the legislative and regulatory authority in the Governorate with the right to issue local legislations..."
- (b) Many recommend that Law 21 should outline the executive powers granted to Governorates in order to avoid any disputes or conflicts with other laws. The clear ability to legislate is especially important when service delivery units, with their staffs and budgets, are transferred to Governorate authority. In the past two years, the Taqadum-GSP SLIT activity has built the capacity of Governorates to draft, pass and archive, and track implementation of legislation.

Ministry of Finance (MOF) Issues

The MOF controls and can prohibit Governorates from opening bank accounts to manage Governorate revenue of fees, taxes and penalties. Article 44 of the second amendment to Law 21 gives the Governorates the right to certain taxes, fees, rents and proceeds from property sales. The local government could go to the Federal Court if the Ministry of Finance officially refuses a request to open an account to deposit these revenues.

The GOI should establish a local government code to include all rules and regulations applied to local government. Rules and regulations applied by the MOF should be redefined and amended to ensure consistency between federal and local regulation.

Establishment of a Commission to Guarantee the Rights of Regions and Governorates

Article 105 of the Constitution calls for the establishment of a commission to guarantee the rights of regions and Governorates and ensure fair participation in managing the federal institutions, missions, fellowships, delegations and conferences. The membership includes federal, regional and Governorate representatives and the commission should be regulated by law. To date, no law has been enacted and no commission has been named.

Capital Law for Baghdad

Article 124 of the 2005 Constitution of Iraq declares Baghdad to be the national capital and directs that it be regulated by a capital law. No capital law has been introduced and Baghdad continues to function as the capital. The failure to draft a capital law is due in part to a conflict between the Constitution and the powers granted to Governorates in Law 21 of 2008.

Private Sector Development

One of the major policy challenges of the next decade in Iraq will be the strengthening and expanding of the private sector. Local government and decentralization are presently important policy concerns in Iraq, but few people appreciate the role a strengthened local government system can play in creating a vibrant, expanding private sector. Some of the key policy issues related to private sector development include:

- (a) Rewriting and/or eliminating all former-regime laws, rules and regulations (Baathist/Socialist policies) that presently discourage, prevent, harm and destroy economic growth at all levels in Iraqi society.
- (b) Introduce modern private sector banking and finance systems structured to support and strengthen innovative and profitable enterprises, investment credit for private companies and corporations.
- (c) Utilize Iraq's oil and gas resources in ways that encourage new industries, expanded agriculture, and other income generating activities that are sustainable over the long term.
- (d) Strengthen university curriculums to introduce modern business practices, stimulate economic investment programs and new technologies.
- (e) Create a Ministry of Local Economic Development that encourages networking, leveraging, and partnerships between the public sector (especially at the Governorate and district and sub district levels), the private sector and the social sector that generate business enterprise opportunities, employment expansion opportunities and seeks to alleviate and/or eliminate extreme poverty in the districts and sub districts of Iraq.

Relationship between GO and GC

The relationship between the PC and GO has been a source of misunderstanding and at times conflict. This relationship is outlined in Law 21, which describes the competencies of each but lacks a detailed description. Confusion over the difference between the monitoring and oversight duties of the PC and GO are often misunderstood, resulting in duplication and confusion. The separation of duties and powers can strengthen the institution. With the transfer of service delivery authority to Governorates the need for clarity on roles and responsibilities is increased. Successful management of service directorates requires a clear management structure with defined duties for the PC and GO. Exercises such as the intensive 5 day workshops for PC committee chairs, GO officials and directorate unit heads held for each province by Taqadum-GSP will need to be repeated to reinforce a common understanding of what PCs can and cannot do. This common understanding must include the PMO. Provincial leaders report frustration in working with central government offices that appear not to fully understand the relationships outlined in Law 21.

Relationship between Governorates, Districts and Sub-districts

Despite the provisions of the requirements of the 2008 law of provincial elections requiring district and sub district elections six months after provincial council elections, no such elections have been held, calling to question the legitimacy of the existing district and sub district council members. It is recommended that these elections be conducted. Additionally, just as there is a need to clarify the various authorities, services and competencies between federal government

and governorates, there is a need to do the same between the governorates, districts and sub-districts.

Land Allocation

Article 7 of Law 21 was amended to “allocate the ownership of lands belonging to ministries... to the province... with the approval of Council of Ministers..” The language raises concern as the transfer of lands appears to require Council of Ministers review which can block transfers due to inaction. Careful review is needed of laws, rules and regulations to develop of a process that can be uniformly applied across governorates.

Basic Conflict between the Federal and the Sub National Executive

Law 21 provides that Governors and two deputies are elected by an absolute majority of the PC, and further that the Governor is considered to be the “highest-ranking executive officer in the governorate at the rank of deputy minister as regards rights and service”. In practice, Governors must respond to the wishes of the PC and the desires of the central government, including the Prime Minister (PM). The real or perceived reporting requirements on the part of the Governor, PM and PC result in confusion over the powers of the Governorates and should be studied and clarified.